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1 Q Approximately what kind of period of time  
2 would that mean?  
3 A Five, ten years.  
4 Q Does George's have an opinion whether or not  
5 the Arkansas Water Resource Center has a good 11:43AM  
6 reputation for its work regarding water quality?  
7 MR. GRAVES: Object to the form.  
8 A George's would say in general that the  
9 University of Arkansas and its ag departments and  
10 its programs have a good reputation. Having said 11:43AM  
11 that, I don't know that that says that George's  
12 would agree with everything that they have ever done  
13 or ever said, but George's would agree that they  
14 have a good reputation.  
15 Q Let me hand you what's been marked as Exhibit 11:44AM  
16 15 and ask you if George's is familiar with that  
17 document.  
18 A I'm not familiar with this document, and I  
19 haven't had anyone else at George's show me this  
20 document or tell me that they were familiar with it. 11:44AM  
21 Q Is this -- this refers to a 1993 research  
22 conference. Is that the kind of participation or  
23 involvement George's would have with the University  
24 of Arkansas and its water resource center?  
25 A That would be typical of involvement that we 11:45AM

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1 would have.  
2 Q Do you know whether or not George's in fact  
3 attended this particular conference in 1993?  
4 A I do not know if anyone from George's did.  
5 Q Do you know whether or not George's reviews or 11:45AM  
6 reads materials produced by the University of  
7 Arkansas relating to water quality and the effects  
8 of poultry growing?  
9 MR. HIXON: Object to form.  
10 A We typically would read and would review. 11:46AM  
11 Q And would that be just recently or over a  
12 period of time? Give me some estimation of when you  
13 would likely have that kind of material.  
14 MR. GRAVES: Object to the form.  
15 A I can't -- I can't tell you a certain point in 11:46AM  
16 time where George's would have started reviewing --  
17 I would say that going back a long ways back, if the  
18 University of Arkansas put out something that  
19 concerned poultry production, that someone at  
20 George's would have probably reviewed what they put 11:47AM  
21 out. Now, to say that someone at George's has read  
22 every document that the University of Arkansas has  
23 put out, I can't say that. And I don't know that  
24 anyone could, but it is likely that we would review  
25 material put out by the U of A. 11:47AM

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1 Q With regard to -- let's say within the last  
2 five or ten years I think you referred to earlier,  
3 if materials such as what I've just described as  
4 materials dealing with poultry growing and its 11:47AM  
5 effect on the environment, who would normally be the  
6 person reading or reviewing that material at  
7 George's?  
8 A Myself.  
9 Q And what do you do with that material after  
10 you've read or reviewed it? 11:48AM  
11 A Typically after I've read or reviewed it, I  
12 would throw it away.  
13 Q And so you would be the only person reading or  
14 reviewing it at George's; is that what you're  
15 telling me? 11:48AM  
16 A I didn't say I would be the only one. I would  
17 typically read it and review it.  
18 Q All right, and --  
19 A Might there be some others in George's that  
20 would read it and review it? There very well could 11:48AM  
21 be.  
22 Q That was my next question is do you  
23 disseminate that material to anyone else to share in  
24 reading or reviewing it?  
25 A It would depend on the particular piece of 11:48AM

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1 material.  
2 Q If it involved water quality and the effects  
3 of poultry growing, who else would you disseminate  
4 it to?  
5 MR. GRAVES: Object to the form. 11:48AM  
6 A It would depend on the particular piece of  
7 material. If I felt like that it was something that  
8 we had not been exposed to before, if I felt that  
9 there was something unique in it and in what way,  
10 that would determine if I passed it on and who I 11:49AM  
11 would pass it on to.  
12 Q Assuming you are the only one that read it,  
13 are you telling me then you would throw it away  
14 after reading it?  
15 A If I kept every piece of paper that came 11:49AM  
16 through my office, this building wouldn't hold it  
17 all. So unless there was something extremely unique  
18 about it, yeah, I would throw it away after I read  
19 it.  
20 Q What kind of materials have you retained that 11:49AM  
21 are unique?  
22 A I can't sit here and think of a specific -- a  
23 specific piece of a document or anything that I  
24 would have had. I can't think of a specific one.  
25 Q Was George's involved in the City of Tulsa 11:50AM

28 (Pages 106 to 109)

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1 Eucha-Spavinaw case?  
 2 MR. GRAVES: Object to the form.  
 3 Q Was it a defendant in that case?  
 4 A Regarding -- yes.  
 5 Q Okay, and since that time, have you continued 11:50AM  
 6 your policy of throwing things away since the  
 7 involvement in that?  
 8 MR. GRAVES: Object to the form of the  
 9 question.  
 10 Q From the time that that lawsuit was filed and 11:50AM  
 11 George's was included as a defendant, has it been  
 12 your policy to continue to throw away items that you  
 13 would have read similar in nature to the materials  
 14 that might come from the University of Arkansas  
 15 about growing poultry and water waste or -- and 11:50AM  
 16 water quality issues?  
 17 MR. GRAVES: Object to the form of the  
 18 question.  
 19 A Unless it's something that specifically  
 20 pertains to our corporate document retention policy, 11:50AM  
 21 it gets thrown away.  
 22 Q Okay, and that continues to be your policy  
 23 today even during the period of this lawsuit?  
 24 MR. GRAVES: Object to the form.  
 25 A I don't keep all that stuff that comes across 11:51AM

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1 continued to do that?  
 2 MR. GRAVES: Object to the form.  
 3 A If I receive mailings and I read them and I  
 4 don't need them, I throw them away.  
 5 Q I know, you've said that, but it doesn't tell 11:52AM  
 6 me the scope of time that you have done that, and  
 7 I'm asking --  
 8 A I didn't say I used to throw them away or I  
 9 did throw them away. I said I throw them away.  
 10 Q Without exception? 11:52AM  
 11 A With the exception of if I need them. If I  
 12 don't need them, then I throw them away.  
 13 Q And you can't recall anything that you've  
 14 needed that you've kept when I asked you about  
 15 unique because I believe that was your description? 11:53AM  
 16 A I can't -- I can't recall a specific one that  
 17 I may have kept.  
 18 Q Let me hand you what's been marked as Exhibit  
 19 2 and ask you if you've seen that document before.  
 20 I'll represent to you, sir, I have not copied the 11:54AM  
 21 entire document retention policy or record retention  
 22 policy, just a couple of sheets of it.  
 23 A I have seen it.  
 24 Q I'll ask you to look at Page 10951, which is  
 25 the second page of this exhibit, and so that I 11:54AM

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1 my desk.  
 2 Q So your answer is you are continuing to throw  
 3 things away even if it might have some relevance to  
 4 this lawsuit?  
 5 MR. GRAVES: Object to the form of the 11:51AM  
 6 question.  
 7 A If it comes from -- we're talking about the  
 8 University of Arkansas. If it comes from the  
 9 University of Arkansas and at some point I would  
 10 have need to go back and get one of those, I could 11:51AM  
 11 go to the University and get a copy of it. I don't  
 12 have to maintain an entire library of documents and  
 13 newsletters in my office to be able to go back and  
 14 get one should I have a need for it.  
 15 Q So am I to understand from that response then 11:51AM  
 16 that you continue your policy of throwing things  
 17 away even during this lawsuit?  
 18 MR. GRAVES: Object to the form of the  
 19 question.  
 20 A I think I've answered that about three times. 11:51AM  
 21 Q Well --  
 22 A If it comes across my desk and I don't need  
 23 it, I throw it away.  
 24 Q And my question was for time and scope of  
 25 time. Even since the filing of this lawsuit, you've 11:52AM

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1 understand it correctly, this retention period for  
 2 the third item down, correspondence, executives,  
 3 when it says P, that means permanent; is that  
 4 correct?  
 5 A Yes. 11:54AM  
 6 Q So that would be kept someplace forever as  
 7 long as it's existed; correct?  
 8 A Yes.  
 9 Q What does the term classified documents refer  
 10 to? 11:54AM  
 11 A Classified documents, that could be any one of  
 12 a number of different types of documents. It could  
 13 be documents related to documents of a competitive  
 14 nature, relating to agreements with customers. They  
 15 could be HR personnel-type documents. 11:55AM  
 16 Q Are there any other kinds of documents that  
 17 would fall in this classification as, quote,  
 18 classified documents?  
 19 A I'm sure there are.  
 20 Q Who would know? 11:55AM  
 21 A The person that took that individual document  
 22 and decided that we don't need this document to get  
 23 out, this is classified.  
 24 Q Who stores or maintains all the classified  
 25 documents that are designated as such? 11:55AM

29 (Pages 110 to 113)

Page 114

1 MR. GRAVES: Object to the form.  
 2 A Ancel McClane would be the keeper of all those  
 3 documents. That would be within his realm of  
 4 responsibility.  
 5 Q You were the deponent for the custodial 11:56AM  
 6 depositions with regard to document production?  
 7 A Yes.  
 8 Q Were classified documents reviewed for  
 9 purposes of your search, George's search to find  
 10 responsive documents to the State's requests? 11:56AM  
 11 A All documents were reviewed.  
 12 Q I'm just asking classified. Were they  
 13 specifically --  
 14 A All documents were reviewed for that.  
 15 Q Does that include classified documents? 11:56AM  
 16 A All, yes. All is an all-inclusive statement.  
 17 Q All right. Tell me what are the work  
 18 papers-management projects; what kind of documents  
 19 would that be?  
 20 A That would be work done on -- work that we 11:56AM  
 21 would have done on future capital projects or  
 22 potential acquisitions or work that might have been  
 23 done on trying to prepare to gain a big account with  
 24 a new customer, work that you wouldn't want to have  
 25 to go back and redo again if at some point it fell 11:57AM

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1 through, work that you spent a lot of time  
 2 developing a template or figuring out the formula on  
 3 how am I going to get to this dollar or to this  
 4 project and if it doesn't happen at this time and 11:57AM  
 5 ten years later that comes back up, you don't want  
 6 to have to go back and recreate that. So you would  
 7 keep that.  
 8 Q Would an example of work papers and management  
 9 projects include George's involvement with  
 10 alternative uses for poultry waste or manure? 11:58AM  
 11 MR. GRAVES: Object to the form.  
 12 A It could.  
 13 Q Do you know whether or not it did?  
 14 A I believe that it did, yes.  
 15 Q So to the extent that George's has produced 11:58AM  
 16 documents relating to alternative uses -- let me ask  
 17 you, do you know whether or not George's has  
 18 produced its documents related to any alternative  
 19 uses of poultry waste?  
 20 A I can't sit here and say that I remember every 11:58AM  
 21 document that we produced. We produced a lot of  
 22 documents.  
 23 Q Would the documents that you searched, would  
 24 they have been where these documents are retained  
 25 and kept? 11:59AM

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1 A Some of them would have been.  
 2 Q But not all?  
 3 A Not all of them. They're not -- all documents  
 4 are not kept in one place but some of them would  
 5 have been. 11:59AM  
 6 Q Did George's to your knowledge produce all  
 7 documents that would relate to alternative uses of  
 8 waste?  
 9 MR. GRAVES: Object to the form.  
 10 Q I mean waste, poultry waste? 11:59AM  
 11 MR. GRAVES: I object to the form also  
 12 because of the geographical scope of the question.  
 13 A Without going back and reviewing all the  
 14 documents that we produced, I can't sit here and  
 15 tell you specifically what pieces of paper we gave 11:59AM  
 16 you and what we didn't.  
 17 Q Are there any -- the next classification in  
 18 this Exhibit 2 speaks to claims in litigation  
 19 concerning facts and breach of contract. Do you  
 20 know what the scope of those documents would be? 12:00PM  
 21 A I think the title is pretty clear. I don't  
 22 know what else I can add to the title.  
 23 Q So to the extent there were any documents  
 24 concerning the litigation involving the City of  
 25 Tulsa and the Eucha-Spavinaw case, those documents 12:00PM

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1 would be kept permanently according to this; is that  
 2 true?  
 3 A Yes.  
 4 Q And if those documents were requested, they  
 5 could be produced; correct? 12:00PM  
 6 MR. GRAVES: Object to the form.  
 7 Q Or some part of those documents could be asked  
 8 for or let me -- either part or all of the  
 9 Eucha-Spavinaw related litigation documents could be  
 10 produced because they've been kept permanently; is 12:01PM  
 11 that true?  
 12 MR. GRAVES: Object to the form.  
 13 A They have been kept.  
 14 Q Next page of this document, grower contracts  
 15 are kept permanently. That is still a true case? 12:01PM  
 16 A As long as that grower is active, we keep his  
 17 contracts permanently.  
 18 Q Okay. So all inactive growers, what happened  
 19 to those contracts?  
 20 A We would not maintain a contract file on 12:01PM  
 21 inactive growers.  
 22 Q With regard to any grower that has gone  
 23 inactive since the filing of this lawsuit in June of  
 24 2005, have those files been retained or destroyed?  
 25 A Those files have been retained. 12:01PM

30 (Pages 114 to 117)

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1 Q All right, and those files, and we say those  
2 files, would include the entire history of those  
3 growers within that file?  
4 A Yes.  
5 Q Lab test reports are permanent records. What 12:01PM  
6 are those referring to, that statement?  
7 A Any test that we would run in our QA lab, they  
8 keep those results permanent.  
9 Q And what type of tests does George's run in  
10 its QA lab? 12:02PM  
11 A We run -- there's a great deal of testing  
12 involved in meeting requirements for the export of  
13 chicken. All those are outlined on the export  
14 library, and we keep up all that testing in our QA  
15 lab to be eligible to export poultry products, and 12:03PM  
16 all that testing is kept permanent. So if we have  
17 to go back at some point and say we shipped a load  
18 on such and such date, we can go back and show the  
19 test results on that load.  
20 Q Is that the extent then of the lab tests that 12:03PM  
21 we're referring to?  
22 A No. The lab can test -- it's a fully staffed,  
23 fully equipped lab. They can test a lot of  
24 different things.  
25 Q So they can test water quality? 12:03PM

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1 A They can run water samples.  
2 Q And soil samples?  
3 A They don't run soil samples.  
4 Q Do they run waste analysis?  
5 A No. 12:03PM  
6 Q Let's look real quick at a document here,  
7 Exhibit No. 25, and ask you whether or not George's  
8 is familiar with this document or any other version  
9 of that document.  
10 A I believe that I have seen this document in 12:04PM  
11 the past. I couldn't tell you exactly when or  
12 where.  
13 Q Do you know whether or not this document has  
14 been retained by you in your offices?  
15 A No, it's not in my office. 12:05PM  
16 Q Do you know if anyone else has it in their  
17 possession at George's?  
18 A No, I do not.  
19 Q Does George's have it in its possession  
20 anywhere else besides your office? 12:05PM  
21 A Not that I'm aware of.  
22 Q Do you know how you came into possession of  
23 this document?  
24 MR. GRAVES: Object to the form.  
25 A No. I'm just telling you that I believe I've 12:05PM

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1 seen this document but I couldn't tell you when  
2 or where.  
3 MR. GARREN: Why don't we take a break for  
4 lunch and we'll reconvene in an hour.  
5 VIDEOGRAPHER: We're now off the Record. 12:06PM  
6 The time is 12:05 p.m.  
7 (Following a lunch recess at 12:06  
8 p.m., proceedings continued on the Record at 1:11  
9 p.m.)  
10 VIDEOGRAPHER: We are back on the Record. 01:10PM  
11 The time is 1:11 p.m.  
12 Q Mr. McClure, I'll remind you that we're back  
13 in session and you are still under oath. During our  
14 lunch break we've handed you a stack of documents  
15 that were provided to me this morning from George's 01:11PM  
16 counsel, and those documents represent various  
17 handbooks, grower handbooks of George's. Have you  
18 had a chance to look at those documents?  
19 A Yes.  
20 Q All right. Going through -- first off, the 01:12PM  
21 top page there's Exhibit 56. That is a summary of  
22 the documents that have been produced. Is that your  
23 understanding of that, a description of what the  
24 document is?  
25 A Yes. 01:12PM

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1 Q Okay. If we can then look at the first  
2 exhibit there and just tell the court what that  
3 document is and the approximate time in which it was  
4 utilized by George's.  
5 A This is a broiler grower handbook. The date 01:12PM  
6 that it was enacted was November of '96 and it was  
7 in place up until -- well, the new handbook is going  
8 out now. So it covered the time frame from then  
9 until current.  
10 Q Current? 01:13PM  
11 A Yes.  
12 Q So that would be the only -- which -- is this  
13 a broiler handbook?  
14 A Broiler handbook, yes.  
15 Q Is that the only handbook that's been in 01:13PM  
16 existence for use by George's for its broilers,  
17 broiler growers?  
18 A Yes.  
19 Q Okay, and you say there's a new one coming  
20 out, a new version currently? 01:13PM  
21 A Yes. It's just been approved and it's going  
22 out now.  
23 Q Okay. One of those could be made available?  
24 MR. GRAVES: It's here.  
25 Q Then let's see if that's there then. Is that 01:13PM

31 (Pages 118 to 121)



<p style="text-align: right;">Page 122</p> <p>1 the next document?</p> <p>2 A Exhibit 51, and the revised date on it is</p> <p>3 7-27-07.</p> <p>4 Q All right.</p> <p>5 A And it is currently going out to the producers 01:13PM</p> <p>6 as we speak.</p> <p>7 Q Okay. Let's go ahead and take these out of</p> <p>8 your way as we identify them. What is the next</p> <p>9 document there in front of you in Exhibit No. 52?</p> <p>10 A It's the breeder pullet handbook. It went 01:13PM</p> <p>11 into effect in May of '97 and it was current up</p> <p>12 through November of '06 or it covered the time up</p> <p>13 from 5-97 up through November of '06.</p> <p>14 Q All right. Has it been replaced then since</p> <p>15 then? 01:14PM</p> <p>16 A It has with what is marked 53.</p> <p>17 Q Exhibit 53?</p> <p>18 A Yes.</p> <p>19 Q That now is the current handbook that's in</p> <p>20 place for your breeders? 01:14PM</p> <p>21 A Yes, for the breeder pullets.</p> <p>22 Q All right, and for the court, just tell us</p> <p>23 what a breeder pullet is.</p> <p>24 A A breeder pullet is an immature breeder hen.</p> <p>25 The term pullet as we use it applies to a female 01:14PM</p>	<p style="text-align: right;">Page 124</p> <p>1 determine that they are in fact contracts that were</p> <p>2 in existence and used by George's during these time</p> <p>3 periods?</p> <p>4 A I have.</p> <p>5 Q Do you know when the first contract that we 01:16PM</p> <p>6 see in Exhibit No. 20 was put into place or into</p> <p>7 use? If you look at Page 4161, there are some</p> <p>8 revision dates there. Maybe that would help refresh</p> <p>9 your recollection of this particular form contract.</p> <p>10 MR. GRAVES: Object to the form of the 01:16PM</p> <p>11 question.</p> <p>12 A This particular contract was -- is dated or</p> <p>13 executed June of 1990. The latest revision date</p> <p>14 shown on here is September of '89. So I would</p> <p>15 assume that it was the '89 revision. 01:17PM</p> <p>16 Q There were also what appear to be five other</p> <p>17 revision dates beginning in '73 through '89. Is it</p> <p>18 your understanding those will be the prior versions</p> <p>19 of the broiler growing contract used by George's?</p> <p>20 A Yes. 01:17PM</p> <p>21 Q Do you know whether any of those still exist</p> <p>22 today?</p> <p>23 A If we had a producer that was still active</p> <p>24 that had grown through all those revisions, they</p> <p>25 would still be in his contract file. 01:17PM</p>
<p style="text-align: right;">Page 123</p> <p>1 bird from day of age up through the onset of</p> <p>2 production, which is approximately 25 weeks.</p> <p>3 Q And production meaning laying eggs?</p> <p>4 A Egg production, yes.</p> <p>5 Q Okay. The next document in front of you then 01:14PM</p> <p>6 is Exhibit 54. Identify that for the court, if you</p> <p>7 would.</p> <p>8 A The breeder hen handbook, which went in in</p> <p>9 March of '98.</p> <p>10 Q And that one is still in existence today or 01:15PM</p> <p>11 controlling?</p> <p>12 A No, no. It was replaced by 55.</p> <p>13 Q Exhibit 55?</p> <p>14 A Which went in in November of '06.</p> <p>15 Q Okay. I'm now going to hand you Exhibit No. 01:15PM</p> <p>16 20, and off the Record you had an opportunity to</p> <p>17 kind of review what that set of documents is, did</p> <p>18 you not?</p> <p>19 A I did.</p> <p>20 Q I'd like to go through those and see if we can 01:15PM</p> <p>21 identify what we're looking at. I believe the way</p> <p>22 this exhibit was set up is that you've got the</p> <p>23 oldest contract on top with the most recent one that</p> <p>24 we had, at least in this stack, on the bottom. Have</p> <p>25 you had an opportunity to review these contracts and 01:16PM</p>	<p style="text-align: right;">Page 125</p> <p>1 Q How would you identify that particular grower;</p> <p>2 would you have to look in his file or is there some</p> <p>3 computer program that would help aid in determining</p> <p>4 if such a grower exists?</p> <p>5 A Just by my knowledge of the grower base, we 01:17PM</p> <p>6 would know the ones that had been with us long term</p> <p>7 and we would just have to go back and go through</p> <p>8 their -- through their contract files to see when</p> <p>9 they originally signed them.</p> <p>10 Q Okay. Look, if you would, at Bates number 01:18PM</p> <p>11 4158 in this document. It should be the top</p> <p>12 contract at Bates number 4158.</p> <p>13 A Okay.</p> <p>14 Q At Paragraph B at the top --</p> <p>15 MR. GRAVES: Did you bring extra copies of 01:19PM</p> <p>16 these particular exhibits?</p> <p>17 MR. GARREN: I'm trying to hide them right</p> <p>18 here in front of me. Sorry.</p> <p>19 A Okay. I'm on 4158.</p> <p>20 Q Paragraph B says, to use only feed supplied by 01:19PM</p> <p>21 George's Farms and to feed and care for chickens</p> <p>22 raised under this contract according to the</p> <p>23 directions, rules, requirements of George's Farms'</p> <p>24 feeding, management and sanitation program for</p> <p>25 broilers. Are those rules and requirements in 01:19PM</p>

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1 writing, if you know?  
 2 A At this time most of them would be in writing  
 3 in the handbook. Prior to the existing -- prior to  
 4 the existence of the handbook, most of them would  
 5 not have been in writing. 01:20PM

6 Q Okay. Bear with me a second. I've got a  
 7 contract I need to find. Go to the second contract  
 8 that's in this package. It should start with a page  
 9 Bates numbered 7241.

10 A Yes, sir. 01:21PM

11 Q And if you move over to the Page 7249, Roman  
 12 numeral 4, Paragraph A, I'll read this to you and  
 13 I'll ask you a question. It is expressly understood  
 14 and agreed by the parties hereto that grower accepts  
 15 full and exclusive liability for the payment and 01:21PM  
 16 agrees to pay and indemnify and save George's of  
 17 Missouri, Inc., harmless from any and all claims,  
 18 causes of action or other liability which might  
 19 result from grower's operation in producing large  
 20 broilers as an independent grower, including, but 01:22PM  
 21 not limited to, all claims for federal, state and  
 22 local taxes of any kind whatsoever, and then it  
 23 lists some other items. Let me ask you this: Does  
 24 George's include that all causes of action or other  
 25 liability to include any waste handling or 01:22PM

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1 disposition of its contract growers?

2 MR. GRAVES: I object to the form of the  
 3 question and to who it's directed to. If you can  
 4 answer, that's fine. 01:22PM

5 A What that paragraph was kind of geared  
 6 towards, if a grower through blatant recklessness or  
 7 say a grower did something that was so egregious  
 8 with the birds or with the litter, that he was fined  
 9 or sued personally because of his actions, then he  
 10 would accept any responsibility for how those 01:23PM  
 11 actions spilled over onto George's.

12 Q Can you give me an example of what you might  
 13 consider for George's an egregious act with regard  
 14 to any waste, poultry manure handling or  
 15 disposition? 01:23PM

16 MR. GRAVES: Same objection.

17 A If a contract producer decided to clean the  
 18 litter out of his houses and just go dump it  
 19 directly into the river and he got caught doing that  
 20 and was fined and sued for those actions, then he 01:24PM  
 21 would have to -- by this he would have to stand for  
 22 any actions that would be reflected on George's  
 23 because of what he did personally.

24 Q Okay. I'm going to ask you then to go to  
 25 Exhibit No. 21, if you would, please. 01:24PM

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1 MR. GRAVES: These are different than the  
 2 ones we looked at when we were off the Record or are  
 3 these the same thing?

4 MR. GARREN: Oh, I'm sorry. Did he not  
 5 look at all three sets? He should have. 01:24PM

6 MR. GRAVES: I think he just saw Exhibit  
 7 20.

8 A No. I did see them all. I just kind of got  
 9 confused on what stacks we were looking at.

10 Q Are these pullet grower agreements used by 01:25PM  
 11 George's in the time frame based upon the date of  
 12 the contract?

13 A Yes.

14 Q Do you know how early the first version that  
 15 we're looking at as the first contract -- it's 01:25PM  
 16 actually dated November of '87. Do you know when  
 17 that contract was first used by George's?

18 A No, I don't know exactly when that contract  
 19 was put in. It may well have been then or it could  
 20 have existed for a year or two prior to that. 01:25PM

21 Q Who is C. L. George & Son listed in this  
 22 agreement as the grower?

23 A C. L. George & Sons is one of the LLC's that  
 24 owns some of the farms that we manage corporately.

25 Q Is there a person named C. L. George? 01:26PM

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1 A Well, the name C. L. George, that was -- that  
 2 was Gene George's father. That was the founder of  
 3 the company.

4 Q But that is an LLC is what you're telling me  
 5 as it pertains to this contract? 01:26PM

6 A Yes, sir.

7 Q Let's then go to the next stack of contracts.  
 8 It's No. 22. These appear to be hatching egg  
 9 production agreements and lease agreements. Can you  
 10 describe for the court, please, what is the 01:27PM  
 11 procedure used by George's that causes you to use a  
 12 hatching egg production and lease contract?

13 MR. GRAVES: Object to the form of the  
 14 question.

15 Q Can you explain procedurally how that 01:27PM  
 16 operates, what George's does, what the grower does  
 17 and who they are?

18 MR. GRAVES: Object to the form and the  
 19 compound nature.

20 A Okay. This hatching egg production and lease 01:28PM  
 21 contract, George's -- one of the -- one of the  
 22 entities that owns the farms that we manage  
 23 corporately --

24 Q Can you tell me what that entity is?

25 A That's why I was thinking. I really don't 01:29PM

33 (Pages 126 to 129)

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1 know which because they're all named now with LLC's  
2 and I don't have all those set to memory, but  
3 there's a -- what was at that time I believe a  
4 two-house breeder farm and that farm was actually  
5 leased to Ronnie Harp and Joe Meadors, and they  
6 didn't manage it for the company; they actually  
7 leased that farm from the company and managed it and  
8 received the said pay. So this is not -- that's the  
9 only farm that was ever set up that way. So this is  
10 not the standard hatching egg production contract  
11 that all the growers would have signed. This is a  
12 production and lease contract that was specific to  
13 that farm.

01:29PM

14 Q Okay, and so as I hear you say, there are no  
15 other examples of this or should not have been but  
16 for this Ronnie Harp and Joe Meadors agreement?

01:29PM

01:30PM

17 A I believe that is correct, yes.

18 Q Tell me then how a normal hatching egg  
19 production contract would occur --

20 A Okay. 01:30PM

21 Q -- with a grower on the farm.

22 A The grower would own the breeder housing and  
23 then we would sign a contract with him to produce  
24 hatching eggs for us. When the birds are  
25 approximately 21 weeks old, we move the birds from

01:30PM

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1 A Liquid would come from a commercial egg  
2 operation.

3 Q Now, in this contract, though, the title to  
4 the birds still remains with George's at all times;  
5 is that correct? 01:32PM

6 A That is correct.

7 Q Who's responsible for the dead birds in the  
8 hatching egg agreement?

9 A The grower is responsible for disposing of the  
10 dead birds. 01:32PM

11 Q What I'm going to do now is I'm going to go  
12 down a list of items that I believe are uniform in  
13 respect to all of these contracts and I'm going to  
14 ask you whether or not these are -- if my

15 understanding is correct about the various aspects  
16 of these contracts. So if there is a particular  
17 contract that you know of that doesn't fit into the  
18 category that I'm describing, please let me know.  
19 First off, with regard to these contracts, George's  
20 does not negotiate the terms of these with its  
21 growers, does it? 01:33PM

22 MR. GRAVES: Object to the form of the  
23 question.

24 A From the standpoint of the grower gets to make  
25 the decision as to whether or not he wants to enter

01:32PM

01:33PM

01:33PM

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1 the pullet farm to his breeder hen farm. Okay. At  
2 the time that we move them, the birds aren't in  
3 production yet. So there is no hatching egg pay to  
4 be gleaned from them. So for the first four or five  
5 weeks that those pullets are in the house, we pay  
6 the grower per bird to manage those birds and take  
7 care of them until production starts. Once egg  
8 production starts, which is the 24th, 25th week, and  
9 egg production pay exceeds the babysitting pay for  
10 lack of a better term, then he starts collecting the  
11 pay based upon the production of the birds.

01:30PM

12 Q And then those birds at that point will stay  
13 in that barn for how much longer?

14 A They will stay in that barn until  
15 approximately 65 weeks of age. So he'll get them  
16 when they're 21 and he'll keep them until they're  
17 65, so you are looking at 44 weeks.

01:31PM

18 Q Does that breeder barn produce liquid or dry  
19 waste?

20 A It is dry waste. 01:31PM

21 Q Okay. Where is liquid waste produced or  
22 generated?

23 MR. GRAVES: Object to the form.

24 Q Is that like in a commercial egg laying  
25 production? 01:31PM

01:31PM

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1 into that contract with George's.

2 Q That's the grower's choice whether they even  
3 want to enter into a contract; correct?

4 A That's correct.

5 Q But the actual terms of that contract, the  
6 conditions under which they will perform, the grower  
7 does not negotiate those terms with George's; is  
8 that correct? 01:33PM

9 MR. GRAVES: Object to the form.

10 A That is correct. 01:33PM

11 Q Is it correct then that George's supplies and  
12 delivers the birds to its growers at no cost?

13 A That is correct.

14 Q And George's owns the birds or retains title  
15 to the birds throughout their life? 01:33PM

16 A That is correct.

17 Q Does George's own any of the dead birds in any  
18 situation with its growers?

19 MR. GRAVES: Object to the form of the  
20 question. 01:34PM

21 A As part of the contract, the grower takes the  
22 responsibility for disposing of those dead according  
23 to all local, state and federal rules and  
24 regulations.

25 Q All right. So their job is just to get rid of

01:34PM

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1 them, bury them, dispose them, incinerate, however  
 2 is required by law?  
 3 MR. GRAVES: Object to the form.  
 4 A To dispose of them as is required by law, yes.  
 5 Q Does George's pick up any dead birds for any 01:34PM  
 6 reason?  
 7 A Once we start to catch birds on a farm, for  
 8 example, a broiler farm, if we're going out to bring  
 9 those birds into the plant, once we actually start  
 10 the process of catching those birds, if any of the 01:34PM  
 11 birds die during that catching process, then we take  
 12 those birds in.  
 13 Q All right. Is George's the one that sets the  
 14 schedule for placement of the birds?  
 15 A We set the schedule while working with the 01:35PM  
 16 growers' needs and wishes. If a grower wants to  
 17 take a vacation and he lets us know ahead of time,  
 18 we'll to the best of our ability provide him enough  
 19 out time to work in his vacation between flocks or  
 20 if he needs to do repairs to his buildings or 01:35PM  
 21 whatever he needs, we try to accommodate those  
 22 requests.  
 23 Q The schedule for picking up the birds is  
 24 determined by George's?  
 25 A Yes. 01:35PM

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1 A Yes, it does.  
 2 Q Does it supply all the medications required  
 3 for the birds at the grow-out farms?  
 4 A If any is required, we would supply it.  
 5 Q Does George's supply all the vaccinations that 01:37PM  
 6 are required for the birds at the grow-out farm?  
 7 A Yes, we do.  
 8 Q And does George's supply all the veterinary  
 9 services for its birds?  
 10 A Yes. 01:37PM  
 11 Q George's in fact -- it also supplies what I  
 12 refer to as a service tech or a field  
 13 representative, field man. What term do you use at  
 14 George's?  
 15 A Serviceman is fine. 01:37PM  
 16 Q Serviceman, and does George's supply a  
 17 serviceman for use -- let me back up. First off,  
 18 the serviceman is an employee of George's; correct?  
 19 A Correct.  
 20 Q His duties or tasks are generally to go in and 01:38PM  
 21 check on the various grow-out farms on a fairly  
 22 regular basis?  
 23 MR. GRAVES: Object to the form.  
 24 A Generally, yes.  
 25 Q And the cost of that is borne by George's, is 01:38PM

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1 Q The actual birds that are delivered, they are  
 2 not chosen by the grower but picked by George's for  
 3 delivery?  
 4 A That is correct. However, on our delivery,  
 5 when we put the delivery schedules together, we have 01:36PM  
 6 programs in place to rotate chicks out of pullet  
 7 flocks, to rotate any byproducts that we may source.  
 8 We keep track of what chicks that a grower has  
 9 received for the last year and we make certain that  
 10 he doesn't get more than his share of pullet chicks 01:36PM  
 11 or outside purchased chicks, that those get rotated  
 12 around so he doesn't get stuck in a rut where he  
 13 gets them all the time.  
 14 Q So there are times where George's will  
 15 actually buy chicks from another supplier, provide 01:36PM  
 16 them to the grower -- to George's growers for  
 17 grow-out?  
 18 A There have been times when that has happened,  
 19 yes.  
 20 Q All right. Is that more the exception than 01:37PM  
 21 the rule?  
 22 MR. GRAVES: Object to the form.  
 23 A Yes, that is more the exception than the rule.  
 24 Q Does George's supply and deliver all the feed  
 25 to each of its grow-out farms? 01:37PM

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1 that correct, for the use of the service tech?  
 2 A That is correct.  
 3 Q Is it part of the responsibility of the  
 4 service tech to supervise and advise on the care and 01:38PM  
 5 feeding and management of the flock?  
 6 MR. GRAVES: Object to the form of the  
 7 question.  
 8 A That is correct.  
 9 Q Does this service tech provide periodic  
 10 inspection of the farm and the birds? 01:38PM  
 11 MR. GRAVES: Object to the form of the  
 12 question.  
 13 A He does periodically visit the farm and  
 14 inspect the birds.  
 15 Q Generally how often does that occur? 01:39PM  
 16 A On an average that would occur once a week.  
 17 Q Is part of the duties of the service tech to  
 18 check on the temperature control in the barns? Let  
 19 me rephrase that. Does he check on the temperature  
 20 while he's there at the barns? 01:39PM  
 21 A Yes.  
 22 Q And does he check on the controls for the  
 23 temperature while he's inspecting the barns?  
 24 A Yes.  
 25 Q Does he inspect the ventilation controls? 01:39PM

35 (Pages 134 to 137)



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1 A I want to be careful here that I don't start  
 2 agreeing with things when I'm not really certain  
 3 what you're asking. From a -- does he inspect the  
 4 ventilation controls? He will inspect the  
 5 condition, the growing conditions inside the house. 01:40PM  
 6 He will go in the house and he will say the  
 7 temperature is appropriate to produce this age of  
 8 bird; the air quality is good; the humidity is not  
 9 too high; the ammonia is not too high. That's what  
 10 his inspection is geared towards. Will he go and 01:40PM  
 11 physically inspect all the different pieces of  
 12 equipment in that house that help provide that  
 13 environment, no.  
 14 Q That wasn't my question either, but let me ask  
 15 you this then: Ventilation is important with regard 01:40PM  
 16 to raising the birds, is it not?  
 17 A Yes, it is.  
 18 Q And many or most of the barns have some type  
 19 of mechanism that controls how that ventilation is  
 20 managed? 01:40PM  
 21 MR. GRAVES: Object to the form.  
 22 A Some type. The types can be greatly varied  
 23 but some type.  
 24 Q If the inspector determines while he's at the  
 25 barn that the ventilation isn't as it should be, 01:41PM

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1 will he adjust those controls to provide more or  
 2 less ventilation as he deems necessary?  
 3 A He will not unless -- if the producer is  
 4 there, if the contract grower is there and he asks  
 5 the serviceman for some assistance in learning how 01:41PM  
 6 to better operate this equipment or how to provide a  
 7 better environment, then the serviceman may get  
 8 hands-on with him teaching him how to do it. If  
 9 that grower is not there, then the serviceman won't  
 10 touch it unless he feels like that it's so far out 01:41PM  
 11 that the health and welfare of the birds are in  
 12 jeopardy.  
 13 Q Okay, but in that situation, he would  
 14 certainly leave a written report advising him of his  
 15 inspection and findings and make suggestions for 01:41PM  
 16 changes that he thinks should happen?  
 17 MR. GRAVES: Object to the form.  
 18 A He will leave a written report on every visit,  
 19 whether things are as they should be or not. In the  
 20 event that there was something that was so far out 01:42PM  
 21 of line that the welfare of the bird was in  
 22 jeopardy, as soon as he got that corrected, he would  
 23 make every effort to locate that grower and make  
 24 that grower aware of what the condition was and what  
 25 he did to correct it. 01:42PM

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1 Q Does a service tech check on the water supply  
 2 to the birds when he inspects?  
 3 A He will check and make sure that there is  
 4 water to the birds and that the watering systems  
 5 themselves are working properly. 01:42PM  
 6 Q And that would include perhaps even the height  
 7 of the nipples that service the birds for accessing  
 8 water?  
 9 A He will make note as to whether or not the  
 10 height of the waterers are appropriate or not. 01:43PM  
 11 Q In addition to checking on water, would he  
 12 check on the feed delivery systems for the birds  
 13 when he makes his inspection?  
 14 A Through the course of the visit, he will make  
 15 note of the feeders. 01:43PM  
 16 Q What kind of things does he look for when he  
 17 does that?  
 18 A First off are the feeders operating; is it the  
 19 appropriate feed depth in the pan; is the feeder --  
 20 does it have a hole in the tube that it's leaking 01:43PM  
 21 feed out on the floor somewhere; is the feeder  
 22 height set properly for that age bird?  
 23 Q It's not uncommon to have unused feed in the  
 24 bedding material and manure when it's removed from  
 25 the house? 01:43PM

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1 MR. GRAVES: Object to the form.  
 2 Q Is that a fair statement?  
 3 A There won't be a great quantity of unused  
 4 feed, but to say that -- to say there would never be  
 5 any unused feed in the litter would not be an 01:44PM  
 6 accurate statement. There's the potential for there  
 7 to be some unused feed in that litter. The better  
 8 job that the producer does in managing his flock and  
 9 managing his feeder system, the less unused feed  
 10 there's going to be. 01:44PM  
 11 Q Does the service tech also check on the  
 12 condition of the bedding material and the waste when  
 13 he makes inspections of the barn?  
 14 MR. GRAVES: Object to the form. Go ahead.  
 15 A He will make note of the condition of the 01:44PM  
 16 litter.  
 17 Q Does he also check with regard to any  
 18 maintenance items that might need to be performed at  
 19 the barn while he's there inspecting?  
 20 A He may, depending upon the severity and the 01:44PM  
 21 impact that that problem is having on the flock.  
 22 Q All of those kind of things are pretty well  
 23 set out in a service tech report or weekly  
 24 management report; is that --  
 25 MR. GRAVES: Object to the form. 01:45PM

36 (Pages 138 to 141)

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1 Q The items that he checks, is that on a -- let  
 2 me back up. Does the service tech have like a  
 3 preprinted form that he uses when he makes his  
 4 inspections?  
 5 A Yes, he does. 01:45PM  
 6 Q And there's also a space there where he can  
 7 write comments or suggestions or recommendations;  
 8 correct?  
 9 A That is correct.  
 10 MR. GRAVES: Object to the form. 01:45PM  
 11 Q Does George's supply the catchers and the  
 12 trucks to pick up the birds when that occurs?  
 13 A Yes, George's does supply the catchers and the  
 14 trucks.  
 15 Q Are the contracts that we've looked at here 01:45PM  
 16 today, are they similar to those that would be used  
 17 outside the IRW?  
 18 MR. GRAVES: Object to the form of the  
 19 question.  
 20 Q Let me ask it this way: Does George's have 01:46PM  
 21 different forms of grower or breeder pullet  
 22 contracts for growers in different watersheds?  
 23 A No.  
 24 Q Are the contracts that we've looked at today  
 25 that you've identified in like Exhibits 20 through 01:46PM

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1 bird, he's going to be receiving the same kind of  
 2 feed as the other grower?  
 3 MR. GRAVES: Object to the form.  
 4 A Correct.  
 5 Q And is that the same for growers outside the 01:47PM  
 6 watershed, the Illinois River watershed; would they  
 7 receive the similar feed formula for the similar  
 8 aged birds?  
 9 MR. GRAVES: Object to the form of the  
 10 question. I think that we've got an order in place 01:48PM  
 11 with regard to some requests noted with the City of  
 12 Tulsa case. You can sigh all you want but I'm going  
 13 to make my objection.  
 14 MR. GARREN: You made your objection. I  
 15 understand the objection. 01:48PM  
 16 MR. GRAVES: No, apparently you don't. The  
 17 City of Tulsa case, and we're asking questions, the  
 18 rationale behind the court's order on was that those  
 19 operations outside the watershed were not relevant.  
 20 The relevancy hadn't been demonstrated, and you're 01:48PM  
 21 asking questions about things and operations outside  
 22 the watershed as opposed to corporate knowledge  
 23 obtained from wherever it might have been obtained  
 24 from. So I'm going to instruct the witness not to  
 25 answer. 01:48PM

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1 22, we would find those in use by any grower of  
 2 George's wherever they may be?  
 3 MR. GRAVES: Object to the form.  
 4 Q Maybe it's easier for me to ask it this way:  
 5 Are these standard contracts that George's uses with 01:46PM  
 6 all its growers?  
 7 MR. GRAVES: Object to the form of the  
 8 question.  
 9 A For the time frame in which each contract  
 10 represented, yes. 01:46PM  
 11 Q Yes. Thank you. Does each -- do all of the  
 12 growers for George's receive the same feed or feed  
 13 formula?  
 14 MR. GRAVES: Object to the form of the  
 15 question. Are we again talking about the Illinois? 01:47PM  
 16 Q Let's -- we'll start there at the IRW. Within  
 17 the IRW, do all of the growers receive the same kind  
 18 of feed formula?  
 19 A The feed formulation would be the same for any  
 20 particular given age bird. 01:47PM  
 21 Q And I understand. I didn't mean to imply that  
 22 it doesn't. You change different feed formulas  
 23 depending on the age of the bird; correct?  
 24 A Depending on the age of the bird.  
 25 Q So for every grower that's got a similar aged 01:47PM

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1 Q Does George's know that the growers outside  
 2 the watershed use the same contracts that the ones  
 3 inside the Illinois River watershed use?  
 4 MR. GRAVES: Object to the form of the  
 5 question and it has an assumption in it that hasn't 01:48PM  
 6 been testified to.  
 7 A Please ask the question again.  
 8 Q Does George's know the form of the contract  
 9 used for growers outside the Illinois River  
 10 watershed is the same as the form used by those 01:49PM  
 11 within the watershed?  
 12 MR. GRAVES: Same objection.  
 13 A Yes.  
 14 Q And those are in fact the same forms?  
 15 MR. GRAVES: Same objection. 01:49PM  
 16 A When you say forms, you're talking about --  
 17 Q For the time frame that they're used?  
 18 A Yes.  
 19 Q Let me hand you what's been marked as Exhibit  
 20 23. These are brought -- I'm sorry, broiler flock 01:49PM  
 21 service reports that were pretty much picked at  
 22 random. Are these pretty much an example of the  
 23 service tech report that we talked about that is  
 24 prepared by your serviceman on inspection?  
 25 A Yes, it is an example of that. 01:50PM

37 (Pages 142 to 145)

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1 Q Is this a more recent form that's being used  
2 by George's?  
3 MR. GRAVES: Object to the form.  
4 Q I notice in the lower right-hand corner a  
5 couple of these have a G-0071. I didn't know  
6 whether that references some kind of revision date  
7 or not.  
8 A That's just an order number for the printers.  
9 Q All right. Do these forms change over time or  
10 have they? 01:50PM  
11 A We changed -- about four or five years ago we  
12 changed the forms up slightly just to give the guys  
13 more room to fill things out and to make it flow  
14 better, but the substance didn't change. It was  
15 just the formatting, if you will. 01:51PM  
16 Q Okay. Does George's have minimum defined  
17 specifications for the houses growers are to use?  
18 MR. GRAVES: Object to the form.  
19 A We do not have minimum housing specs that  
20 existing growers have to meet. If a grower has a  
21 contract with George's, as long as he is competitive  
22 and productive under that contract, we don't require  
23 that he upgrade or update his equipment as we go  
24 along.  
25 Q George's has what is referred to as an 01:52PM

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1 intensified management program; is that correct?  
2 A That is correct.  
3 Q When did that go in place?  
4 A That went into place about seven years ago.  
5 Q If a grower is in that program and doesn't  
6 seem to succeed, is that an example where maybe an  
7 upgrade of the housing specifications is requested? 01:52PM  
8 A The upgrade may be recommended to the grower  
9 but it's always the grower's option as to whether or  
10 not he wants to make that upgrade. 01:52PM  
11 Q One of the areas of inquiry has to do with  
12 ingredients and composition of feed formulas, past  
13 and present, used at the poultry growing operations  
14 within the IRW, and you're prepared to speak on that  
15 subject today; is that correct? 01:52PM  
16 A Yes, sir.  
17 Q I'm going to hand you some exhibits that are  
18 marked attorney eyes only for this part of the  
19 deposition. I don't intend to ask you details about  
20 these exhibits but I just want to establish what  
21 they are. They will be segregated for the Record  
22 for purpose of the court reporter. 01:53PM  
23 MR. GRAVES: What exhibit number was it?  
24 MR. GARREN: 24.  
25 Q If you would just simply go through and look 01:53PM

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1 at these very briefly. Again, George's has produced  
2 a number of feed formula pages similar to this and  
3 my question to you is, as far as you know, has  
4 George's produced all of the feed formulas for the  
5 time frame that was requested? 01:54PM  
6 MR. GRAVES: I'll object to the form of the  
7 question.  
8 Q And I'm not representing to you that these are  
9 all of them right here.  
10 A I understand. 01:54PM  
11 Q I'm just saying generally speaking do you know  
12 whether or not George's put any limitations on the  
13 kinds of documents representing feed formulas that  
14 were produced to the State of Oklahoma?  
15 MR. GRAVES: Same objection. 01:54PM  
16 A It is my belief that we provided our attorneys  
17 with all of the feed formulations that we had on  
18 record.  
19 Q So if there was an objection by the attorneys  
20 not to produce things in advance of the time period  
21 2002, we would not have received them based on that  
22 objection but you would have given them to the  
23 lawyers? 01:54PM  
24 A That is correct.  
25 Q Okay. Does -- what is the source of the 01:54PM

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1 ingredients that make up the feed formula used by  
2 George's and I mean in this context, do the source  
3 ingredients come from outside the Illinois River  
4 watershed, formulated here and then provided to its  
5 growers? 01:55PM  
6 MR. HIXON: Object to form.  
7 A There's not one self-standing consistent  
8 source for all these ingredients. You take the  
9 corn, for example. The corn doesn't always come  
10 from the same field. It may come from Iowa this  
11 train and Illinois the next train and Texas, you  
12 know, just -- so there's not a consistent source for  
13 most of these ingredients. Were these ingredients  
14 always produced in the Illinois River watershed?  
15 No, they weren't always produced in the Illinois  
16 River watershed. To say that none of them ever  
17 were, I can't say that because over time nobody  
18 would know where every load of corn came from that  
19 went into making chicken feed, but --  
20 Q George's uses a lot of corn, doesn't it? 01:56PM  
21 MR. GRAVES: Object to the form of the  
22 question.  
23 A George's uses a lot of corn.  
24 Q It's not likely that the amount of corn that  
25 George's uses could be produced within the Illinois 01:56PM

38 (Pages 146 to 149)

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1 River watershed; is that a fair statement?  
 2 MR. GRAVES: Object to the form.  
 3 A That is a fair statement.  
 4 Q Does George's at this point continue to use  
 5 the product 3-Nitro 20? 01:57PM  
 6 A 3-Nitro is a product that we use off and on.  
 7 It is a product that just went back in the feed but  
 8 through the spring and early summer was not in the  
 9 feed.  
 10 Q That product has as part of its components 01:57PM  
 11 Roxarsone; is that correct?  
 12 MR. GRAVES: Object to the form.  
 13 A That is correct.  
 14 Q Who is a gentleman by the name of Les Childers  
 15 or Childress? 01:58PM  
 16 A Les was the nutritionist at George's. Les has  
 17 since retired.  
 18 Q And the gentleman by the name of Jim Wilson?  
 19 A Jim is the current nutritionist for George's.  
 20 Q Are the feeds used for the broilers different 01:58PM  
 21 than those that would be supplied to the hens?  
 22 A Yes, it is different.  
 23 Q And I may overly generalize and if I do, just  
 24 correct me, but as I understand it, there are  
 25 various different feed formulations. Some of them 01:58PM

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1 are referred to as starter feed; is that a correct  
 2 statement?  
 3 A Correct.  
 4 Q And that's basically what it is; that's some  
 5 of the first feed a bird would get in its life; 01:58PM  
 6 correct?  
 7 MR. GRAVES: Object to the form.  
 8 A Correct.  
 9 Q There is what is referred to as a grower feed?  
 10 A Correct. 01:59PM  
 11 Q What time frame in its life does it get a  
 12 grower feed?  
 13 A The bird will receive grower feed from  
 14 approximately 14 days up through approximately 19,  
 15 20 days. 01:59PM  
 16 Q And is there -- what feed is furnished to the  
 17 grower, to the bird after that grower feed?  
 18 A Prefinisher.  
 19 Q And how long does he receive, the bird receive  
 20 prefinisher? 01:59PM  
 21 A The bird will stay on prefinisher from  
 22 approximately 20 days up through approximately 33,  
 23 34 days.  
 24 Q Does the bird then go on to a finisher feed?  
 25 A It depends on if it's a large -- if it's 01:59PM

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1 growing for a large broiler or a small broiler. If  
 2 it's grown for a small broiler, it goes on to a feed  
 3 that's called fattener feed, which is just a  
 4 withdraw feed. If it's growing for a large broiler,  
 5 then it goes on to finisher feed. That will be fed 02:00PM  
 6 up to approximately 45 days and then it will switch  
 7 over to withdraw.  
 8 Q And so the larger broiler will skip the  
 9 fattener feed and go to withdrawal after it's on the  
 10 finisher? 02:00PM  
 11 A Uh-huh.  
 12 Q That's a yes?  
 13 A That is correct.  
 14 Q Okay. Do the pullets receive different feed  
 15 than the broilers or do they receive similar feed 02:00PM  
 16 during their life span that you've described before  
 17 they move on to being hens?  
 18 A They receive different feed.  
 19 Q Let me hand you what's been marked as Exhibit  
 20 49 and ask if you can tell the court what that 02:01PM  
 21 document represents. For purpose of the Record, I  
 22 think we are no longer talking about attorney eyes  
 23 documents. Can you tell me what it is I'm looking  
 24 at, the first couple of pages of this Exhibit No.  
 25 49? 02:01PM

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1 A The first four pages are what we call  
 2 charge-out sheets.  
 3 Q What do they tell us?  
 4 A We maintain inventories of certain  
 5 merchandises or products that the grower may need 02:01PM  
 6 and when the grower has a need for one of those  
 7 products or some of that merchandise, then the  
 8 serviceman will deliver it and he will fill out this  
 9 ticket to send to accounting saying that that either  
 10 needs to be charged to the flock or charged to the 02:02PM  
 11 grower or not charged to either but simply taken off  
 12 of inventory.  
 13 MR. GRAVES: Rick, I wanted to note there's  
 14 an attorney eyes only attached.  
 15 MR. GARREN: I did notice that as I moved 02:02PM  
 16 through this document. The very last page of this  
 17 document is attorney eyes only.  
 18 MR. GRAVES: It's out of sequence from the  
 19 other Bates numbers so I don't even know if it's  
 20 part of all of this. 02:02PM  
 21 MR. GARREN: Right.  
 22 Q Do the charge-out statements reflect the kind  
 23 of medications that are administered to the birds at  
 24 any given time?  
 25 A No. 02:02PM



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1 Q Where would you find the medications that  
2 might be administered to the birds at any given  
3 time?  
4 A Let me back up. Anything that we might keep  
5 in inventory or anything that we would routinely 02:03PM  
6 keep in inventory is printed onto this sheet.  
7 Q All right.  
8 A Okay, but as you look at these charge-out  
9 sheets, there were no medications charged out on  
10 these sheets. 02:03PM  
11 Q But medications are listed here is my point;  
12 correct?  
13 A Yes.  
14 Q And so these would be -- these are the general  
15 medications kept in stock but in this particular 02:03PM  
16 example aren't necessarily charged to this grower  
17 from the document we're looking at?  
18 A That is correct.  
19 Q Are there any other kinds of medications that  
20 would be administered to the George's birds that 02:03PM  
21 aren't listed on this charge-out sheet?  
22 A These sheets tend to be pretty inclusive for  
23 the time frame that they're relevant to.  
24 Approximately once a quarter we'll go through and  
25 update that list and these items are no longer 02:04PM

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1 carried in inventory or added to inventory. This  
2 will be updated to keep it relevant.  
3 Q The very last page, which is attorney eyes  
4 only, it's entitled George's commercial layer  
5 vaccination program? 02:04PM  
6 A Yes.  
7 Q Is that representative of what vaccinations  
8 are administered to the birds approximately in their  
9 life span and when they are administered?  
10 A For a commercial layer it is. 02:04PM  
11 Q All right. Do you have different programs  
12 then for the broiler or pullets?  
13 A Yes.  
14 Q And they would be shown on a similar sheet as  
15 what we're looking at at Bates page number GE 34082? 02:05PM  
16 A The program for the breeder pullets and  
17 breeder hens would be on a sheet like this. The  
18 program for the broilers would not be on a sheet  
19 like this. It's a much simpler program. It only  
20 involves a couple of vaccines, so it would not be 02:05PM  
21 processed on a big sheet like this.  
22 Q Okay. Thank you. How many feed mills does  
23 George's have?  
24 A How many feed mills?  
25 Q Yes, sir. 02:05PM

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1 A We currently -- up until the sale of the  
2 Commercial Egg Division, we had two in the Arkansas  
3 and Missouri division. We had two, one in  
4 Springdale and a mash mill in Watts, Oklahoma. The  
5 mash mill sold with the Commercial Egg Division. We 02:06PM  
6 have a new feed mill that is being built in  
7 Butterfield, Missouri that will start up in  
8 September.  
9 Q So currently then all of your birds receive  
10 the feed from a single mill now at this time; is 02:06PM  
11 that correct?  
12 MR. GRAVES: Object to the form of the  
13 question.  
14 Q Or do you buy feed from other locations or  
15 sources? 02:06PM  
16 MR. GRAVES: Same objection.  
17 A We have feed custom milled for us to finish  
18 filling out our needs above what we can produce at  
19 the Springdale mill.  
20 Q Okay, and do the birds in the IRW receive any 02:07PM  
21 of this custom mill feed work from time to time?  
22 A Yes, they would.  
23 Q And is the use of the custom feed mill only  
24 because of the sale of the Commercial Egg and loss  
25 of that mill or has that been the general practice 02:07PM

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1 for George's in the past?  
2 A George's has had feed custom milled for  
3 several years. It's not just due to the sale of the  
4 mash mill.  
5 Q Okay. Who does the commercial or custom feed 02:07PM  
6 mill for George's?  
7 A We have Peterson Farms; we have a contract  
8 with them. They make -- they custom mill feed for  
9 us and Willow Brook custom mills feed for us in  
10 Missouri. 02:08PM  
11 Q So those mills -- well, for Peterson it's  
12 located where; do you know?  
13 A In Decatur.  
14 Q And the one for Willow Brook is located where?  
15 A Butterfield. 02:08PM  
16 Q I'm going to change topics and we're going to  
17 talk about the number, the size, location of poultry  
18 houses and barns, past and present, at your poultry  
19 growing operations within the IRW, but I think we've  
20 seen a notice of need to change a tape. Let's do 02:08PM  
21 that first.  
22 VIDEOGRAPHER: We're now off the Record.  
23 The time is 2:08 p.m.  
24 (Following a short recess at 2:08 p.m.,  
25 proceedings continued on the Record at 2:18 p.m.) 02:18PM

40 (Pages 154 to 157)

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1 VIDEOGRAPHER: We are back on the Record.  
 2 The time is 2:17 p.m.  
 3 Q Off the Record we handed you Exhibit 27. You  
 4 have that in front of you, do you not?  
 5 A Yes, I do. 02:18PM  
 6 Q The first page of that document, it's listing  
 7 poultry houses under contract with George's and it  
 8 shows current at 12-3-04; do you see that?  
 9 A Yes.  
 10 Q It references that company-related farms are 02:18PM  
 11 included. Is that the same term as the company  
 12 owned or company managed that we've been using in  
 13 this deposition?  
 14 A Yes.  
 15 Q So does this first page show as of that time 02:18PM  
 16 the total number of growers by type of farm and the  
 17 number of houses?  
 18 A It does.  
 19 Q And then it's also allocated with regard to  
 20 the two states, Arkansas and Oklahoma. Do you know 02:19PM  
 21 who put this together?  
 22 A It would have been my office that put this  
 23 together.  
 24 Q Is the information that you used to prepare  
 25 this in electronic form? 02:19PM

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1 A I'm not sure what you mean by electronic form.  
 2 Q Is it maintained on your computers where you  
 3 can draw down the information and plug it into a  
 4 spreadsheet or compile it in a spreadsheet?  
 5 A We don't keep up with growers by watershed, so 02:19PM  
 6 we take the -- we take the grower listing and go  
 7 through the full grower list and identify those  
 8 farms by addresses and locations that would have fit  
 9 into this list.  
 10 Q Is the full grower list, is that part of this 02:20PM  
 11 exhibit that I'm looking at, these other schedule  
 12 pages on the last part of this exhibit?  
 13 A This is a list of the farms that make up these  
 14 numbers.  
 15 Q I understand that, but you talk about a full 02:20PM  
 16 grower list. Is that a list maintained  
 17 electronically or is that a hard copy document; what  
 18 is it?  
 19 A It is maintained electronically.  
 20 Q And does it maintain -- does that list contain 02:20PM  
 21 information -- look at the third page of this  
 22 document where it talks about George's contract,  
 23 pullet growers, Illinois River watershed.  
 24 A Uh-huh.  
 25 Q Does your list that you just referred to, does 02:20PM

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1 it contain information more than what I see on this  
 2 page?  
 3 A Yes, it would because it would have driving  
 4 directions to the farm. It would have the number of  
 5 feed bins on the farm and their capacity. It would 02:21PM  
 6 have more details about that specific farm.  
 7 Q Is that document referred to by name in your  
 8 company?  
 9 A It's referred to as a 10-20.  
 10 Q Okay. 02:21PM  
 11 MR. GRAVES: CB lingo.  
 12 Q Yeah, and that document can be printed out by  
 13 an individual page for a farm; do you know?  
 14 A No. When it's -- when they print it -- I  
 15 guess technically an IT person could print an 02:21PM  
 16 individual page but it -- but I don't know that he  
 17 could print just a strip off of an individual farm.  
 18 That program was set to run on the old blue bar  
 19 paper, and I don't think you can print off just an  
 20 individual farm because any time I've needed just an 02:22PM  
 21 individual farm, I've always had to go to the page,  
 22 black out above and below and make a copy.  
 23 Q I gotcha. Okay. How is the second page of  
 24 this exhibit constructed? It's a map that reflects  
 25 dots and locations by breeder, broiler, layer and 02:22PM

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1 pullet, names of farms.  
 2 A Uh-huh.  
 3 Q Am I correct in what I just said?  
 4 A That is correct.  
 5 Q How is this prepared or created? 02:22PM  
 6 A This is off of a computer program based on the  
 7 GPS coordinates of each farm.  
 8 Q How long has the GPS coordinates for each farm  
 9 been maintained by George's?  
 10 A We put that together for our attorneys three 02:23PM  
 11 years ago.  
 12 MR. GRAVES: I think it was for the Prairie  
 13 Grove case.  
 14 Q Okay. Now --  
 15 MR. GRAVES: Because there's farms on here 02:23PM  
 16 that are not in the Illinois. Like I know -- like  
 17 the Clarity Farm up there on the north end of it is  
 18 in Eucha-Spavinaw. This is not an Illinois only.  
 19 MR. GARREN: Even though it says Illinois,  
 20 it's got -- 02:23PM  
 21 MR. GRAVES: I see Illinois written in the  
 22 middle of it and I see the heading but I see some  
 23 farms that are not in the Illinois River watershed  
 24 on this map.  
 25 MR. GARREN: Okay. 02:23PM

41 (Pages 158 to 161)

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1 Q Now, the exhibit -- when we were off the  
 2 Record I asked you to mark on the exhibit with  
 3 regard to the names of those farms that are  
 4 considered grower owned, grower managed. Have you  
 5 done that? 02:23PM  
 6 A Yes, company-managed farms I have.  
 7 Q Are there company-owned farms that are not on  
 8 this list that should be?  
 9 A No, there's none that should be on the list  
 10 that's not. 02:24PM  
 11 Q As of this time, then this is going to  
 12 represent all contract farms, all grower owner or  
 13 managed farms; correct?  
 14 A That's correct. Now there are farms on this  
 15 list that are no longer in production. 02:24PM  
 16 Q I understand that.  
 17 A But there hasn't been any added that are in  
 18 production that's not on this list.  
 19 Q Since December of '04 there's no new farms  
 20 that could be added to this list that aren't on it? 02:24PM  
 21 A That is correct.  
 22 Q All right, and for the Record you have noted  
 23 the CM by the name of the farm; that is company  
 24 managed?  
 25 A Correct. 02:24PM

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1 Q And that's same as we've been using company  
 2 owned or company managed; is that a correct  
 3 statement? The CM doesn't mean anything other than  
 4 company owned or company managed for purpose of this  
 5 exhibit; correct? 02:25PM  
 6 A The CM means that George's, Incorporated  
 7 manages that farm. It doesn't mean that George's,  
 8 Incorporated owns that farm.  
 9 Q Okay. I think you established in your  
 10 testimony earlier that George's does not own a farm 02:25PM  
 11 within the Illinois River watershed in Oklahoma?  
 12 A Correct.  
 13 Q It does own a farm or does it own a farm in  
 14 the Arkansas side in the IRW?  
 15 A It owns one farm. 02:25PM  
 16 Q And did you note it on this list also?  
 17 A I did.  
 18 Q Okay. When this form speaks to capacity, that  
 19 is the maximum number of birds that would be placed  
 20 in that house or houses at that farm? 02:25PM  
 21 A That is correct.  
 22 Q What generally -- what level of occupancy by  
 23 percentage does George's Farms run?  
 24 MR. HIXON: Object to form.  
 25 MR. GRAVES: Object to the form. 02:25PM

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1 Q Pretty sloppy form, but do you understand what  
 2 I'm trying to get to?  
 3 A That could be asking a couple of different  
 4 things, so please reask it.  
 5 Q Well, how close is this capacity number to 02:26PM  
 6 what you would expect to see in actual birds placed?  
 7 MR. GRAVES: Object to the form.  
 8 A It's close; it's real close.  
 9 Q Within a few hundred then?  
 10 A Within a few hundred. 02:26PM  
 11 Q Okay. Are the poultry houses used by either  
 12 the contract growers or the company-managed farms  
 13 generally the same size or a different size?  
 14 A There are different sizes.  
 15 Q Tell me what are the general sizes that you 02:26PM  
 16 find in the George's Farms.  
 17 MR. GRAVES: Object to the form.  
 18 A If -- the most common size broiler house that  
 19 you will find in production today is still a 16,000  
 20 square foot house. There will still be some smaller 02:27PM  
 21 houses that were built in the '60's and '70's that  
 22 are still in production.  
 23 Q They generally are what size?  
 24 A As a rule, they'll either be 36 by 250 or 36  
 25 by 380. 02:27PM

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1 Q Okay.  
 2 A Now, during that period there were a lot of  
 3 different size houses built and so they don't all  
 4 follow that standard but those are the most common 02:27PM  
 5 sizes. The newer houses, houses that have been  
 6 built in the last ten years are more 500 foot long  
 7 houses, 20,000 square feet, 21,500.  
 8 Q And would they be -- so 40 wides?  
 9 A 40 wides, 43 wides.  
 10 Q Okay. On the full company list that you 02:28PM  
 11 talked about gets printed out on blue bar, it  
 12 reflects the size of the barns that are on each  
 13 particular farm; is that what I understood you to  
 14 say?  
 15 MR. GRAVES: Object to the form. 02:28PM  
 16 A Yes. It will reflect the size of the houses.  
 17 Q Is there a method by which an executive at  
 18 George's can determine what is the total current  
 19 production in a given time frame as it occurs?  
 20 MR. GRAVES: Object to the form. 02:29PM  
 21 Q Maybe I should limit it this way. If you  
 22 wanted to know how many broilers were produced in a  
 23 given period, such as a quarter or a half year or a  
 24 full year, can George's give that information to its  
 25 executive? 02:29PM

42 (Pages 162 to 165)

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1 MR. GRAVES: Object to the form.  
 2 A Certainly for a period of time. I mean we  
 3 could certainly know how many birds we placed and  
 4 processed last quarter.  
 5 Q How would you go about determining that? 02:29PM  
 6 A The way I would go about determining it, I  
 7 would call flock accounting and tell them I needed  
 8 that number.  
 9 Q And would they be able to pull it from a  
 10 computer program and give it to you; do you know? 02:30PM  
 11 MR. GRAVES: Object to the form.  
 12 A Yes.  
 13 Q Would they be able to give you that number if  
 14 you wanted it for a single farm?  
 15 A Yes. 02:30PM  
 16 Q And would that -- if you requested flock  
 17 accounting to give you for a single farm an annual  
 18 production number from that farm, can you get that  
 19 information?  
 20 A For a period of time in history I can. There 02:30PM  
 21 will be a point where I can't.  
 22 Q What period is that that you cannot?  
 23 A Well, now, let me -- if it's -- if you're  
 24 talking about a specific farm or a specific flock, I  
 25 know we can go back into Laser Vault years back. 02:31PM

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1 Q Laser Vault is a form of a program that is  
 2 used; correct?  
 3 A Right, to archive that stuff. As far as total  
 4 complete production records like you were talking  
 5 about earlier, I don't know that we can go that far 02:31PM  
 6 back. I don't think that goes back as far as the  
 7 individual settlement records for the growers.  
 8 Q So you're talking about the older -- the  
 9 oldest form would be a flock for a week ending  
 10 period and it wouldn't be aggregated or summarized 02:32PM  
 11 any other time frame besides the single flock; is  
 12 that correct?  
 13 A That is correct.  
 14 Q But now you can do that summary in the  
 15 computer that you couldn't do before? 02:32PM  
 16 A Correct.  
 17 Q Does George's know from finished pounds  
 18 produced approximately how many birds that equates  
 19 to?  
 20 MR. GRAVES: Object to the form. 02:32PM  
 21 A Well, you can back into a number. You can  
 22 build formulas to back into a number but you can't  
 23 go back and say this is without a doubt exactly how  
 24 many.  
 25 Q I understand that. You've got some 02:33PM

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1 condemnation that occurs from when a bird is brought  
 2 off the farm, finally processed through the final  
 3 product or the final total pounds. Does that  
 4 number, that condemnation percentage stay fairly  
 5 constant? 02:33PM  
 6 MR. GRAVES: Object to the form.  
 7 A It does stay relatively constant.  
 8 Q What percentage do you see that running at  
 9 generally?  
 10 A And I take it we're talking about farm condemn 02:33PM  
 11 here and that will -- for small broilers that will  
 12 run 35, 40 points.  
 13 MR. ELROD: I'm sorry, how many?  
 14 A Three-tenths of a percent, four-tenths of a  
 15 percent, and for large broilers it will run 02:33PM  
 16 three-quarters of a percent to a percent.  
 17 Q And that's the farm condemn?  
 18 A Uh-huh.  
 19 Q That means those that came from the farm were  
 20 condemned and not put into the processing; is that 02:34PM  
 21 correct?  
 22 A Right.  
 23 Q Would some of those be sent for rendering and  
 24 other uses, not human consumption?  
 25 A Correct. 02:34PM

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1 Q George's is required to report to the FDA its  
 2 production of poultry meat, is it not?  
 3 MR. GRAVES: Object to the form.  
 4 Q Or USDA? Maybe I said something wrong. 02:34PM  
 5 MR. GRAVES: You said FDA.  
 6 Q I'm sorry. Does George's report its  
 7 production of meat to the USDA?  
 8 A Yes.  
 9 Q How does it report that; in pounds, number of  
 10 birds, heads, that sort of thing? 02:34PM  
 11 A I believe both.  
 12 Q And does -- is there any validation or  
 13 certification of those numbers when given to the  
 14 USDA by George's?  
 15 MR. GRAVES: Object to the form. 02:35PM  
 16 A I don't believe there's any validation of  
 17 those numbers.  
 18 Q Does -- are the numbers created by George's  
 19 when given to the USDA?  
 20 A Yes. 02:35PM  
 21 Q The USDA does not participate in creating  
 22 these numbers that are in fact generated for the  
 23 USDA?  
 24 A Well, USDA plays a role in that in the fact  
 25 that they attest -- since they're the ones that are 02:35PM

43 (Pages 166 to 169)



<p style="text-align: right;">Page 170</p> <p>1 inspecting the birds and they're the ones that are  2 actually condemning or culling the disposition on  3 the carcasses, then at the end of each lot of  4 chickens, they fill out a USDA condemn certificate  5 that has the number of head that was run, the number 02:35PM  6 of head that was condemned, the dispositional reason  7 for the condemn and so, yeah, USDA does have -- I  8 don't know if they choose to use it. I can't speak  9 for what USDA does but they have access to the  10 numbers to verify our numbers if they choose to do 02:36PM  11 so.  12 Q Okay, and is it George's opinion that the  13 numbers that they do give to USDA is an accurate  14 count as best as possible?  15 MR. GRAVES: Object to the form. 02:36PM  16 A Yes.  17 Q If one wanted to determine total production by  18 George's, the USDA numbers would be a good source of  19 information for that purpose?  20 MR. GRAVES: Object to the form. 02:36PM  21 A I can't speak to the accuracy of USDA's  22 numbers. I mean --  23 Q Aren't they the same numbers that George's  24 gave them; isn't that what they're using?  25 A But as it goes through all their process, like 02:36PM</p>	<p style="text-align: right;">Page 172</p> <p>1 Q And who would produce that report?  2 A Flock accounting would be the one to produce  3 that report.  4 Q So if you described what you just told me,  5 they could figure out what the report is and run it? 02:39PM  6 A Yes.  7 Q Has George's at any time in the last three or  8 four years determined what percentage of birds it  9 has or houses it has in compared to the other  10 integrators in this lawsuit limited to the IRW? 02:39PM  11 A That work has been done. Our attorneys have  12 been involved in doing that work.  13 Q Do you know what that percentage is that  14 George's has relative to the other integrators in  15 the IRW? 02:40PM  16 A No, I don't know.  17 Q Let me look at this document real quick. The  18 Youngman Farm, is it also known as the Boss Farm,  19 either Boss West or Boss East?  20 A No, it's not. 02:40PM  21 Q Has it ever been known that way?  22 A No, sir.  23 Q Is there a Boss Farm?  24 A Yes, there is.  25 Q Is there a Boss East and Boss West? 02:40PM</p>
<p style="text-align: right;">Page 171</p> <p>1 I said awhile ago, we don't -- we don't attest to  2 the number that USDA -- we don't verify that number.  3 Q I understand that. There's no reason for USDA  4 to change those numbers once they've been given to  5 them from George's? 02:37PM  6 MR. GRAVES: Object to the form.  7 A Not that I know.  8 Q Does George's have any records that would  9 reflect the production on an annual period over a  10 large period of time that it's been in operation? 02:37PM  11 MR. GRAVES: Object to the form.  12 Q Some type of historical data?  13 A Yes. We would have those records for a period  14 of time.  15 Q What would be that period? 02:38PM  16 A On a single report for ten years.  17 Q What would that report be called?  18 A I don't remember. It's a --  19 Q How would you describe it for -- I assume  20 flock accounting would pull it or someone else? 02:38PM  21 MR. GRAVES: Object to the form.  22 A I can't remember the name of the report.  23 Q If you wanted to --  24 A But it has performance and production records  25 summarized by year for the last ten years. 02:39PM</p>	<p style="text-align: right;">Page 173</p> <p>1 A Yes, there is.  2 Q Are those company farms, Bost Farms?  3 A They are company-managed farms.  4 Q Do you recognize the Carpenter Farm?  5 A Yes, I do. 02:41PM  6 Q Is that in operation?  7 A Yes, it is.  8 Q It's a company-managed farm?  9 A Yes, it is.  10 Q Twins G East, is that a company-managed farm? 02:41PM  11 A Yes, it is.  12 Q Is the P as in Paul, E as in Edward, B as in  13 Bill, P-E-B, LLC, d/b/a Brush Creek Broilers, is  14 that a company-managed farm?  15 A Yes, it is. 02:41PM  16 Q GBH, LLC, d/b/a Bals, B-A-L-S, Farm, is that a  17 company-owned farm or company managed?  18 A Yes, it is company managed.  19 Q And the Youngman Farm, that GBH, LLC, d/b/a  20 Youngman, is that a company farm? 02:41PM  21 A That's a company-managed farm.  22 Q And Brush Creek Pullet Farm, is that a  23 company-managed farm?  24 A Brush Creek Pullets is no longer in  25 production. 02:41PM</p>

<p style="text-align: right;">Page 174</p> <p>1 Q When did it go out of production, if you know?</p> <p>2 A Approximately two years ago. We -- our --</p> <p>3 George's presence -- the number of houses that we</p> <p>4 have under contract in the Illinois River watershed</p> <p>5 has been going down over the last ten years. We 02:42PM</p> <p>6 don't have as many houses in production today as we</p> <p>7 did when that report was printed.</p> <p>8 Q Is there a reason that's happening?</p> <p>9 A Yes.</p> <p>10 Q Is George's making a concerted effort to 02:42PM</p> <p>11 lessen its exposure to the IRW?</p> <p>12 MR. GRAVES: Object to the form.</p> <p>13 A There is a reason why it's happening, but it's</p> <p>14 not because of the watershed. With our plant in</p> <p>15 Butterfield, Missouri and the building of the feed 02:42PM</p> <p>16 mill up there and the hatchery that we have up</p> <p>17 there, it logistically works better for our presence</p> <p>18 of contract growers to be between Springdale and</p> <p>19 Butterfield instead of south of Springdale. So it's</p> <p>20 a logistics -- 02:43PM</p> <p>21 Q Those logistics are geared or driven in part</p> <p>22 as a result of having to deliver feed on a regular</p> <p>23 basis to the farms and how far you want to travel?</p> <p>24 A And the higher diesel fuel gets, the more</p> <p>25 logistical it gets. 02:43PM</p>	<p style="text-align: right;">Page 176</p> <p>1 A Correct.</p> <p>2 Q Is there -- what's the outer range that</p> <p>3 logistically George's would like to see that mileage</p> <p>4 be? Did I say that right? Let me say it this way:</p> <p>5 How far -- how many miles out does George's prefer 02:45PM</p> <p>6 the farm to be from their mill or feed production</p> <p>7 area?</p> <p>8 A That preference has changed over the years as</p> <p>9 the cost of transportation has went up. That number</p> <p>10 would currently be 30 miles, but we have a lot of 02:46PM</p> <p>11 farms in production that are over 30 miles from the</p> <p>12 mill and we will continue to do business with those</p> <p>13 folks, but we wouldn't add a new farm today; we</p> <p>14 wouldn't contract with a new grower today that was</p> <p>15 over 30 miles from the mill. 02:46PM</p> <p>16 Q Okay. I'm going to hand you what's been</p> <p>17 marked as Exhibit 39 and ask you to familiarize</p> <p>18 yourself with that and we'll ask you some questions.</p> <p>19 MR. GARREN: For the Record there are a</p> <p>20 couple of miscellaneous sheets in here that marked 02:47PM</p> <p>21 attorney eyes only. I'm not sure why they are. But</p> <p>22 you might look at those, Counsel, and see if there's</p> <p>23 a reason to continue to have that designation.</p> <p>24 Q Do you know what this is?</p> <p>25 A It's a liquid manure permit application. 02:48PM</p>
<p style="text-align: right;">Page 175</p> <p>1 Q Yeah, okay. Look, if you would, at Exhibit 28</p> <p>2 and tell the court what that is and what it's</p> <p>3 intended to -- what's its purpose for the company in</p> <p>4 its use. I notice the first page is dated '99 I</p> <p>5 think. I looked through them all. Is this an old 02:44PM</p> <p>6 report?</p> <p>7 A This is the information -- this is the</p> <p>8 information that would have backed up the 10-20</p> <p>9 report.</p> <p>10 Q Let me ask you a couple of questions about it 02:44PM</p> <p>11 so I can understand it. When it says account number</p> <p>12 at the top, it's got an M with the number 6968. Is</p> <p>13 that a code for a grower or not?</p> <p>14 A That -- on this sheet that would have been</p> <p>15 Ralph Pendergraft's grower number. 02:44PM</p> <p>16 Q And the farm number at 256, is it just a</p> <p>17 different designation?</p> <p>18 A I don't know what the 256 would stand for.</p> <p>19 Q All right. Going further down in that first</p> <p>20 column where it says tons, 32 tons, is that for feed 02:45PM</p> <p>21 bin capacity?</p> <p>22 A Yes.</p> <p>23 Q And the mileage from -- in this case SPDL</p> <p>24 stands for Springdale. That mileage is 18 miles to</p> <p>25 the farm? 02:45PM</p>	<p style="text-align: right;">Page 177</p> <p>1 Q And the Feemster Farm is the name of the</p> <p>2 facility. Is that a company-managed or owned farm</p> <p>3 or was it?</p> <p>4 A It was.</p> <p>5 Q It's no longer in existence, correct, or am I 02:48PM</p> <p>6 incorrect?</p> <p>7 A That is the farm that George's recently sold.</p> <p>8 Q So that was an egg producing farm?</p> <p>9 A Yes.</p> <p>10 MR. GRAVES: I don't see any reason for 02:48PM</p> <p>11 that to be marked attorney eyes only either. So as</p> <p>12 far as Bates stamp 34156 through 34163, we'll</p> <p>13 withdraw that.</p> <p>14 Q This will be an example of a farm that would</p> <p>15 produce liquid waste; am I correct? 02:49PM</p> <p>16 A That is correct.</p> <p>17 Q Describe just generally in not too much detail</p> <p>18 what that looks like and how it's captured, the</p> <p>19 liquid waste. You might start with where are the</p> <p>20 birds, how they're kept and located that ends up 02:49PM</p> <p>21 producing the waste and where that goes and how it's</p> <p>22 captured.</p> <p>23 MR. GRAVES: Object to the form.</p> <p>24 A The birds are in cages. The manure would fall</p> <p>25 out of the cage down into a trench or a pit or on a 02:49PM</p>

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1 belt or in some sort of an auger where it would be  
2 moved out to the side of the house where it would be  
3 kept in a concrete or plastic or some type of  
4 containment facility until it can be pumped out and  
5 applied. 02:50PM

6 Q Is there anything done to the liquid waste  
7 before it is pumped out of the holding container  
8 into the spreading truck?

9 MR. GRAVES: Object to the form.

10 Q Such as any chemical treatments? 02:50PM

11 MR. GRAVES: Same objection.

12 A I don't believe so.

13 Q Is it diluted in any way while it's in the  
14 container before it's pumped into the spreading  
15 truck? 02:50PM

16 A Only with water.

17 Q And is that because it's exposed to  
18 precipitation?

19 MR. GRAVES: Object to the form.

20 Q Or is it purposely diluted? 02:51PM

21 A It would be mostly -- in most applications  
22 water would be used to flush it out of the house.

23 Q I see. So the flush-out water along with the  
24 manure is captured in the container?

25 A Yes. 02:51PM

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1 Q That combination is pumped into the truck and  
2 then is directly applied in that form?

3 A Yes, sir.

4 Q This waste nutrient plan at Page 34158 speaks  
5 to 6.0 applications per year minimum in the center  
6 of the page there. Would that mean that you're  
7 going to empty that container six times and spread  
8 it, the container we just spoke about that contains  
9 the flush-out water and the manure? 02:51PM

10 A I believe what that means is that based on the  
11 available storage capacity there, that that's --  
12 that is the absolute minimum number of times that it  
13 could be emptied. 02:52PM

14 Q Meaning it could be emptied more often?

15 A Yes, it could be emptied more often but that's  
16 the -- 02:52PM

17 Q Do you know the size of the containers that  
18 would normally be used in a layer facility similar  
19 to this?

20 A I do not. 02:52PM

21 Q Are there specifications that George's is  
22 familiar with that would be available to show the  
23 size of the containers that are normally used with a  
24 layer cage or layer facility?

25 A Those being liquid manure facilities, the 02:53PM

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1 State would be involved in the sizing and the design  
2 of that. That facility would have to be approved by  
3 a State engineer before you could get a permit on  
4 it, so they would have guidelines you would have to  
5 follow. 02:53PM

6 Q Look at the first page of this in Paragraph  
7 No. 3. It says a maximum number of animals to be  
8 confined is 525,000. Is that confinement period for  
9 a single flock or is that over a period of a year or  
10 do you know? 02:53PM

11 A That would be at any one time.

12 Q Do you know how many houses are at this  
13 location or were in this period of 1992 or '6,  
14 whatever the date was? Look at Page 31149. There's  
15 a letter that refers to four layer houses? 02:54PM

16 A Yes.

17 Q So in those four layer houses we'd have a  
18 total number of 525,000 birds at any given time?

19 A Correct.

20 Q Okay. I hand you Exhibit 36. Look at that  
21 document and tell me when you are ready and we can  
22 speak about it. 02:54PM

23 A Okay.

24 Q We spoke earlier about Stacy Harrison. He's a  
25 broiler manager; is that correct, if I'm remembering 02:55PM

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1 that right?

2 A He's one of the servicemen.

3 Q Graham Farm, what is his connection then to  
4 the Graham Farm?

5 A The Graham Farm is one of the company-managed  
6 farms and that is within Stacy's area of  
7 responsibility. 02:55PM

8 Q All right, and this is a breeder pullet  
9 facility; is that correct?

10 A It is. 02:55PM

11 Q Is it typical then for the owners of the LLC  
12 to be employees or executives of George's?

13 MR. GRAVES: Object to the form.

14 A Some of them may be owners or executives of  
15 George's. 02:56PM

16 Q There may be some unrelated owners also?

17 A There may be.

18 Q All right. If you look at Page GE 356 in this  
19 document and Table 6 in the middle where it talks  
20 about excess or deficit nutrients, this reflects  
21 that the litter spreading recommendations would  
22 produce an excess of phosphorus if it were followed  
23 for the amount it's suggesting be applied. Is that  
24 the way you read this report? 02:57PM

25 MR. GRAVES: Object to the form. 02:57PM

46 (Pages 178 to 181)

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1 A If litter were applied to meet those nitrogen  
2 target goals.  
3 Q You would see that P205 excess that's shown on  
4 this table; correct?  
5 A Yes. 02:58PM  
6 MR. GRAVES: Object to the form.  
7 Q Look further back at Page 3 -- looks like it's  
8 Page 369. This is a soil analysis report and for  
9 some reason it's been printed looks like upside down  
10 on the page, but I think we can read it 02:58PM  
11 sufficiently. This is dealing with Graham 1, which  
12 is the field ID; do you see it in the upper  
13 left-hand corner?  
14 A Yes.  
15 Q And that refers to one of the fields 02:58PM  
16 designated in this nutrient management plan.  
17 Looking at a phosphorus level of 465, does George's  
18 consider that to be high?  
19 MR. GRAVES: Object to the form.  
20 A By that soil nutrient profile, all it needs is 02:59PM  
21 nitrogen.  
22 Q The next page, it's another soil analysis in  
23 the same time period but on Field 2. Does George's  
24 consider the soil test phosphorus level at 656 to be  
25 high? 02:59PM

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1 MR. GRAVES: Object to the form.  
2 A According to this -- according to this plan,  
3 George's would not think that that field needed any  
4 additional phosphorus placed on it.  
5 Q Looking at the next page, 399, refers to 02:59PM  
6 Graham 3 field for the same time period, and its STP  
7 level is now 950 on this field. Does George's  
8 consider that to be a high STP level?  
9 MR. GRAVES: Object to the form.  
10 A We wouldn't think that that field needed any 03:00PM  
11 additional phosphorus applied at this time.  
12 Q Would it indicate to you that perhaps more  
13 phosphorus had been applied than it needed for a  
14 previous period?  
15 MR. GRAVES: Object to the form, assumes 03:00PM  
16 facts not in evidence.  
17 A It tells you what it is. What it doesn't tell  
18 you is how it got there.  
19 Q Do you know who would have the history of the  
20 land applications that occurred to this property in 03:00PM  
21 the time frame of '03 and prior to it?  
22 MR. GRAVES: Object to the form, same  
23 assumption.  
24 A I would have.  
25 Q It would be in your office at George's? 03:00PM

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1 A It would be in my area of responsibility.  
2 Q How long does George's retain soil application  
3 -- yeah, let me back up. How long does George's  
4 retain litter or waste application records?  
5 MR. GRAVES: Object to the form. 03:01PM  
6 Q For company-managed farms?  
7 A We have detailed records that go back  
8 approximately ten years.  
9 Q In what form are they kept; hard copy,  
10 computer or other? 03:01PM  
11 A Both.  
12 Q You know how to access those records and  
13 forms?  
14 A Yes.  
15 Q So if I made a request for those forms, you 03:01PM  
16 would be able to go get them and produce them  
17 pursuant to a request made by the State of Oklahoma?  
18 A Yes.  
19 Q Let me hand you what's been marked as Exhibit  
20 37. This appears to be a similar report to what we 03:02PM  
21 just looked at but this deals with Stacy Harrison  
22 and the Ritter Farm and it says slash Elm 1, 2, 3,  
23 4. Is Ritter/Elm, is that a single farm location?  
24 A Yes.  
25 Q Is that how it's referred to, a multiple name 03:02PM

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1 there, Ritter --  
2 A Typically it's Elm Farm.  
3 Q Elm Farm. This is again a company-managed  
4 farm, is it not?  
5 A Not technically. 03:02PM  
6 Q Okay.  
7 A If we go back to that first breeder contract  
8 that we looked at earlier --  
9 Q The Harper and --  
10 A -- that was a lease production contract, and I 03:03PM  
11 said that is the only farm that we have. Elm is the  
12 same farm and that is still the only farm that we  
13 have that operates under that type of an  
14 arrangement, but that farm is actually leased to an  
15 individual that manages that farm. So George's 03:03PM  
16 doesn't manage the operation of that farm, except to  
17 file for the permit because the property is company  
18 related, but we don't hire the help out there; we  
19 don't supervise the help. We just service the farm  
20 like we would any contract farm and the individual 03:03PM  
21 that leases it manages the poultry facility.  
22 Q Who owns the actual farm; George's, Inc.?  
23 A No. It's not George's, Inc.  
24 Q A subsidiary of it? Well, I'm sorry. Look at  
25 the second page. It says owner information, if 03:04PM

47 (Pages 182 to 185)



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1 different from operator, is C. L. George, but it  
 2 uses the P. O. Drawer of George's, Inc. So does the  
 3 individual, C. L. George, own this or is this going  
 4 to be the LLC that --  
 5 A That would be the LLC. 03:04PM  
 6 Q And Stacy Harrison's involvement in this  
 7 particular farm then is just as a service tech would  
 8 be to any other contract grower?  
 9 A No, no. The reason that Stacy applied -- the  
 10 reason Stacy was involved in applying for the permit 03:04PM  
 11 on this is because that property is company related.  
 12 Q Meaning the LLC is company related?  
 13 A Yes.  
 14 Q And because the LLC owns that farm, that's  
 15 considered company related? 03:05PM  
 16 A Yes.  
 17 Q I see.  
 18 A And any cattle that's ran on that farm or any  
 19 other --  
 20 Q Can you find Exhibit 22 in your stack of 03:05PM  
 21 exhibits there, please?  
 22 MR. GARREN: Or if counsel can get one  
 23 quicker, that's fine, too.  
 24 A 22.  
 25 Q This is the contract that we talked about 03:06PM

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1 earlier that is the hatching egg production and  
 2 lease contract?  
 3 A Yes.  
 4 Q Though it's dated 1980, it obviously is not 03:06PM  
 5 the same one that would apply to this farm. Is a  
 6 similar type of contracting relationship going to  
 7 exist then in the farm that we've identified as the  
 8 Elm, Ritter/Elm Farm as you see as described in this  
 9 contract in Exhibit 22?  
 10 A A similar relationship would exist. 03:06PM  
 11 Q I understand the form may be different now  
 12 because of the aging but --  
 13 A Yes.  
 14 Q -- that's the kind of relationship we're  
 15 looking at? 03:06PM  
 16 A It's the same kind of relationship, that is  
 17 correct.  
 18 Q Do you know whether or not George's or any  
 19 subsidiaries owned this property prior to the LLC  
 20 acquiring it? 03:07PM  
 21 A I don't know that.  
 22 Q If it occurred, would George's have records  
 23 reflecting that it did?  
 24 A I don't think that George's, Inc., would have  
 25 records that it did. 03:07PM

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1 Q Look at Page 2338 of this document. Looking  
 2 again at the STP levels from the soil analysis  
 3 report --  
 4 A Okay. I've got --  
 5 Q I'm sorry. We're looking at Exhibit 37. 03:07PM  
 6 A Yeah.  
 7 MR. GRAVES: Were these notations already  
 8 on there?  
 9 MR. GARREN: Yeah.  
 10 MR. GRAVES: They're not yours? 03:08PM  
 11 MR. GARREN: No, and for the Record I will  
 12 reiterate the handwritten notations on the three or  
 13 four pages we're going to look at are not mine or  
 14 this office. They were there when we received the  
 15 form. 03:08PM  
 16 A Uh-huh.  
 17 Q Does George's have any opinion whether or not  
 18 a soil test phosphorus level of 1,213 is too high  
 19 for that field?  
 20 MR. GRAVES: Object to the form. 03:08PM  
 21 A We would have an opinion that that field would  
 22 not need additional phosphorus applied at those  
 23 levels.  
 24 Q Does George's have an opinion about how long  
 25 it might take for that to, without further 03:08PM

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1 phosphorus application, reduce to the point that it  
 2 could receive more poultry waste application?  
 3 MR. GRAVES: Object to the form.  
 4 A All that depends on how intensely that ground 03:09PM  
 5 is managed, the crop that you decide to grow on it,  
 6 whether that crop is harvested off or whether that  
 7 crop is left there to graze. There's so many  
 8 different scenarios there that there's not a way to  
 9 say it's going to be one to five, ten to twenty,  
 10 forty to fifty years because how -- how long that 03:09PM  
 11 level stays at a level depends on how much of that  
 12 phosphorus you mine out of the ground with your  
 13 production.  
 14 Q And to do that, you would literally need to  
 15 remove the grass from the field to help lower that 03:09PM  
 16 STP level, wouldn't you?  
 17 MR. GRAVES: Object to the form.  
 18 A You cut hay.  
 19 Q And if you simply grazed it, the cow generally  
 20 is going to recycle that grass back to the field and 03:09PM  
 21 slow the process of removing it; would you agree?  
 22 MR. GRAVES: Object to the form and to the  
 23 terminology.  
 24 A If a cow is grazing it, then a lot of that --  
 25 a lot of the nutrients that is in that grass will 03:10PM

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1 wind up back on the ground.  
 2 Q Does, on the next page of this document,  
 3 George's have an opinion whether or not soil test  
 4 phosphorus of 1,689 is high?  
 5 MR. GRAVES: Object to the form. 03:10PM  
 6 A We would have the opinion that that field  
 7 doesn't need additional phosphorus applications.  
 8 Q Does George's have an opinion that it appears  
 9 that this field has had too much phosphorus  
 10 application in the recent period prior to this 2003 03:10PM  
 11 test?  
 12 MR. GRAVES: Object to the form and assumes  
 13 facts not in evidence.  
 14 A George's doesn't have an opinion as to above a  
 15 certain number is bad or below a certain number is 03:11PM  
 16 good. That's pretty much the basis for a phosphorus  
 17 index, that it all depends on the circumstances that  
 18 are involved, where that field is located, how flat  
 19 that field is, how deep the top soil is, is there  
 20 any slope, how far it is from the river, what kind 03:11PM  
 21 of production is involved there. We can agree that  
 22 there are numbers that are high enough that they  
 23 don't need additional application. We're not going  
 24 to agree that just because a number is a number,  
 25 that that number is too high. What would be 03:11PM

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1 perfectly fine on one field could very well be too  
 2 high on another field, just depending on the  
 3 circumstances surrounding that. That's why you  
 4 have -- that's why you have trained soil scientists  
 5 that are out there writing these plans and doing 03:12PM  
 6 that work on the ground that are educated in making  
 7 those decisions. You know, all these reports that  
 8 we're looking at came from the University of  
 9 Arkansas, and other than the fact that somebody hand  
 10 wrote very high on here, nowhere is it printed on 03:12PM  
 11 here from the Extension Service that these are high.  
 12 It just says that they don't need any more  
 13 phosphorus application.  
 14 Q Would George's agree that that particular  
 15 field has had too many phosphorus applications in 03:12PM  
 16 order to get to the level that we see on the soil  
 17 test phosphorus test?  
 18 MR. GRAVES: Same objection, same problems  
 19 with assuming facts that aren't in evidence  
 20 regarding applications. 03:12PM  
 21 A The thing you don't know just by sitting here  
 22 looking at a soil analysis is that was this based  
 23 on -- is the phosphorus level due to the litter  
 24 applications or is this an area where cattle have  
 25 been wintered for the last 40 years and have been 03:13PM

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1 hayed in a spot, same effect, bringing nutrients in  
 2 from other places and depositing them.  
 3 Q Those nutrients in that example that you just  
 4 gave me would be the hay; is that correct?  
 5 MR. GRAVES: Object to the form. 03:13PM  
 6 A It would be nutrients that are in the hay that  
 7 the cattle doesn't fully utilize and would deposit.  
 8 So, you know, we can make -- we can sit here and  
 9 look at this and make some assumption, but we don't  
 10 know, we can't prove those assumptions because we 03:13PM  
 11 don't know the circumstances that surrounded that  
 12 field.  
 13 Q Notwithstanding that, George's has no opinion  
 14 that this level of soil test phosphorus indicates  
 15 there's been too much phosphorus added to this field 03:13PM  
 16 over some period of time?  
 17 MR. GRAVES: Object to the form.  
 18 Q I'm not asking you the source. I'm just  
 19 asking you now --  
 20 A I understand. What that number -- that number 03:14PM  
 21 indicates that there has been -- from some source  
 22 there has been more phosphorus deposited on that  
 23 field than what has been -- than what has been used  
 24 and removed from that field. Now, does that mean  
 25 that that number is too high? I don't know if that 03:14PM

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1 number is too high. I don't think anybody knows if  
 2 that number is too high.  
 3 Q Let's look at the next page then and let's go  
 4 one more. We have a soil test phosphorus level of  
 5 2,166. Does George's have an opinion whether or not 03:14PM  
 6 that's a high soil test phosphorus level for that  
 7 field?  
 8 MR. GRAVES: Object to the form.  
 9 A That is a field that would not need any  
 10 phosphorus application. 03:14PM  
 11 Q Would George's have an opinion whether or not  
 12 there appears to be too much phosphorus added to  
 13 this field over a period preceding the date of the  
 14 soil test phosphorus?  
 15 MR. GRAVES: Object to the form. 03:15PM  
 16 A George's would have an opinion that that field  
 17 doesn't need any more phosphorus applied at this  
 18 time.  
 19 Q Do you know whether or not George's did  
 20 anything to modify this field to prevent runoff as a  
 21 result of its knowledge of the level of these STP  
 22 tests in 2003? 03:15PM  
 23 MR. GRAVES: Object to the form and also  
 24 object to the implication regarding responsibility.  
 25 We've already testified about the ownership and the 03:15PM

49 (Pages 190 to 193)

<p style="text-align: right;">Page 194</p> <p>1 management of this farm.</p> <p>2 A George's didn't apply any phosphorus to that</p> <p>3 field in that year.</p> <p>4 Q How do you know that?</p> <p>5 A Because we have soil test results and a 03:16PM</p> <p>6 management plan that would tell us we didn't need to</p> <p>7 and we didn't apply any litter to that field.</p> <p>8 Q How about the year preceding the date of the</p> <p>9 soil test phosphorus?</p> <p>10 MR. GRAVES: Object to the form. 03:16PM</p> <p>11 Q Did any George's entities apply phosphorus?</p> <p>12 A Without going back and checking the records, I</p> <p>13 would not say that.</p> <p>14 Q You would have those records and we could</p> <p>15 check them, though; correct? 03:16PM</p> <p>16 MR. GRAVES: Object to the form.</p> <p>17 A Yes.</p> <p>18 MR. GARREN: Let's take a break. We need a</p> <p>19 new tape apparently.</p> <p>20 VIDEOGRAPHER: We're off the Record. The 03:17PM</p> <p>21 time is now 3:16 p.m.</p> <p>22 (Following a short recess at 3:17 p.m.,</p> <p>23 proceedings continued on the Record at 3:28 p.m.)</p> <p>24 VIDEOGRAPHER: We're back on the Record.</p> <p>25 The time is 3:28 p.m. 03:28PM</p>	<p style="text-align: right;">Page 196</p> <p>1 was a production manager. Is that your</p> <p>2 understanding of what his position was?</p> <p>3 A He was for the commercial egg division.</p> <p>4 Q And this is a letter from Jamie Huens,</p> <p>5 H-U-E-N-S, who is a district field inspector for the 03:31PM</p> <p>6 water division of the Department of Pollution</p> <p>7 Control and Ecology for the State of Arkansas.</p> <p>8 Feemster Egg Farm is the farm you identified that</p> <p>9 was previously owned and managed by George's but</p> <p>10 recently sold when the Commercial Egg Division sold; 03:32PM</p> <p>11 correct?</p> <p>12 A Correct.</p> <p>13 Q This letter indicates that there were certain</p> <p>14 violations at that farm at or around 1998. Do you</p> <p>15 see those? 03:32PM</p> <p>16 A Yes.</p> <p>17 Q Do you know what was done to cure the</p> <p>18 violations that were set forth in this letter?</p> <p>19 A The -- I believe the land application records</p> <p>20 were caught up to date and the CAFO permitting issue 03:32PM</p> <p>21 was resolved.</p> <p>22 Q Is that CAFO permitting, is that an annual</p> <p>23 requirement?</p> <p>24 A Yes.</p> <p>25 Q Do you know at the time of 1998 whether or not 03:32PM</p>
<p style="text-align: right;">Page 195</p> <p>1 MR. GARREN: Off the Record counsel had a</p> <p>2 conversation, and I would point out that Exhibit 37,</p> <p>3 while it contains an ADEQ notice of intent, we</p> <p>4 combined that with a nutrient management plan and</p> <p>5 they aren't necessarily the same document. They 03:28PM</p> <p>6 just deal with the same farm.</p> <p>7 MR. GRAVES: Thank you.</p> <p>8 Q On Exhibit 38, which I've handed to you, I</p> <p>9 will represent to you this is a compilation of</p> <p>10 various documents found in the George's production. 03:29PM</p> <p>11 MR. GRAVES: Is this it?</p> <p>12 MR. GARREN: Yes.</p> <p>13 Q And I want to talk about several of these,</p> <p>14 starting with the first page, and whenever you are</p> <p>15 ready to speak to any one or all of this, just let 03:29PM</p> <p>16 me know and we'll start.</p> <p>17 A Okay.</p> <p>18 Q Do you know a Mr. Harvey Hinshaw or know of</p> <p>19 him?</p> <p>20 A I do. 03:31PM</p> <p>21 Q Is he with George's at this time?</p> <p>22 A He is not.</p> <p>23 Q Do you know when he left George's employment?</p> <p>24 A Harvey left George's about seven years ago.</p> <p>25 Q When he was there, this letter implies that he 03:31PM</p>	<p style="text-align: right;">Page 197</p> <p>1 that requirement was in effect for some time or was</p> <p>2 it a new requirement or do you know?</p> <p>3 A I don't know.</p> <p>4 Q And George's doesn't know because you're</p> <p>5 saying you don't know? 03:33PM</p> <p>6 A No. I'm saying I don't know. Someone in</p> <p>7 George's may know that.</p> <p>8 Q All right. Looking at the next page, it's a</p> <p>9 letter dated September 3, 1999. It's a letter to</p> <p>10 Gary George at George's Poultry. I'm assuming 03:33PM</p> <p>11 George's Poultry and that address would be George's,</p> <p>12 Inc.; does that appear to be the case?</p> <p>13 A Yes.</p> <p>14 Q This complaint lists excessive odor, over</p> <p>15 application of litter and spreading litter without 03:33PM</p> <p>16 obtaining the soil tests on the property. Do you</p> <p>17 know what was done to cure any complaints that had</p> <p>18 been raised by the Department of Agriculture in</p> <p>19 1999?</p> <p>20 MR. GRAVES: Object to the form just 03:33PM</p> <p>21 because of the follow-up reports regarding like the</p> <p>22 odor complaint, but he can read the document and</p> <p>23 answer the questions.</p> <p>24 Q The next letter purports to be a response</p> <p>25 letter to the State of Oklahoma Department of Ag by 03:34PM</p>

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1 Keith Horne.  
 2 A Yes.  
 3 Q Do you know Keith Horne?  
 4 A Yes, I know who Keith Horne was.  
 5 Q Okay. He's no longer with the company? 03:34PM  
 6 A He's no longer with the company.  
 7 Q What was his position when he was there when  
 8 it means environmental manager?  
 9 A He was the environmental manager for the  
 10 plants, feed mills and was also involved in the 03:34PM  
 11 permitting for the Commercial Egg during the time he  
 12 was with the company.  
 13 Q So the CAFO permits that were referred to in a  
 14 previous letter would be his responsibility?  
 15 A Yes. 03:35PM  
 16 Q Let me ask you about the response letter of  
 17 September 15th, 1999 written by Mr. Horne. It says  
 18 in the last sentence of the first paragraph, since  
 19 we are unaware of the AWMP, the litter was being  
 20 applied under our standard application rate of 03:35PM  
 21 approximately 2,800 gallons per acre. Is that a  
 22 correct statement that George's had a 2,800 gallon  
 23 per acre standard application rate?  
 24 MR. GRAVES: Object to the form.  
 25 A I do not know where that 2,800 gallons per 03:35PM

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1 acre number comes from.  
 2 Q Apparently Mr. Horne believed that to be the  
 3 standard rate at the time he wrote this letter in  
 4 1999, doesn't he?  
 5 MR. GRAVES: Object to the form. 03:36PM  
 6 A Yes.  
 7 Q Does George's have any knowledge of what time  
 8 frame that standard application rate was being used  
 9 by George's?  
 10 MR. GRAVES: Object to the form, assumes 03:36PM  
 11 facts not in evidence.  
 12 A George's could very well have but I do not.  
 13 Q Would Mr. Horne be a person who would be in  
 14 the position to know what the standard application  
 15 rate was at that time? 03:36PM  
 16 MR. GRAVES: Object to the form.  
 17 A Mr. Horne is no longer with the company. I  
 18 don't know what Mr. Horne knew at the time that he  
 19 worked there.  
 20 Q Given his position with the company, would he 03:37PM  
 21 be the person most likely to know the standard  
 22 application rate at that time?  
 23 MR. GRAVES: Object to the form.  
 24 A Since he was the one that replied to the  
 25 complaint, I would think so. 03:37PM

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1 Q Let's just skip over to Page 34021.  
 2 MR. GRAVES: I'll again note for the Record  
 3 that the Bates numbering in here is kind of  
 4 scrambled up from how it's produced.  
 5 A Where is -- 03:38PM  
 6 MR. GRAVES: You got to keep flipping  
 7 pages. It's not in order.  
 8 A Okay.  
 9 Q In 2000 was the Musteen Farm a George's  
 10 managed farm? 03:38PM  
 11 A Yes.  
 12 Q And Harvey Hinshaw was again at that time the  
 13 production manager for George's; is that correct?  
 14 A Correct.  
 15 MR. GRAVES: Object to the form. 03:38PM  
 16 Q Does George's know what, if any, response was  
 17 made to the complaint that it received in May of  
 18 2000? I'll withdraw that question. Let's go on.  
 19 Let's look at a page that's about four more pages  
 20 down at 33999. Who is Allen Lauber, L-A-U-B-E-R, at 03:39PM  
 21 George's Commercial Egg?  
 22 A Allen is the production manager that replaced  
 23 Mr. Hinshaw.  
 24 Q All right. This is another letter written by  
 25 Paula Albers, administrative programs officer at the 03:40PM

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1 water quality service division for the Department of  
 2 Agriculture for the State of Oklahoma. It cites  
 3 three violations in applying litter without a  
 4 commercial license, failure to obtain a soil sample  
 5 and spreading litter on the side of a hill at a 15 03:40PM  
 6 degree slope. The next letter or next page which is  
 7 a letter in response, the last paragraph of that  
 8 page, last complaint of spreading litter on a slope  
 9 was an error made by our driver. What procedures  
 10 does George's use to train its waste applicators? 03:40PM  
 11 Let me back that up. That's not a proper  
 12 foundation. Does George's in the year 2002 use its  
 13 own personnel to apply poultry waste either in dry  
 14 or liquid form?  
 15 A Yes. At that time we were using our own 03:41PM  
 16 personnel to apply the waste.  
 17 Q Okay, and -- I'm sorry, I didn't mean to  
 18 interrupt.  
 19 A Go ahead.  
 20 Q In doing so, did it own its own trucks for 03:41PM  
 21 purposes of doing that or did they rent or lease  
 22 those trucks?  
 23 A No. George's owned its own trucks.  
 24 Q Since that time that process has changed; is  
 25 that correct? 03:41PM

51 (Pages 198 to 201)



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1 A That is correct.

2 Q And it's my understanding that now George's

3 contracts with at least a company known as Terra

4 Resources or TRS to do waste applications; is that

5 correct? 03:41PM

6 MR. GRAVES: Object to the form.

7 A George's did contract with TRW up until the

8 time we sold the Commercial Egg Division. Now we no

9 longer have any liquid manure to handle.

10 Q So that contract I thought was Terra 03:41PM

11 Resources, TRS, or is it TRW; do you know? We'll

12 call it Terra Resources for our purposes. That's

13 the company you are referring to?

14 A Yes, yes.

15 Q They then only land spread -- would land 03:42PM

16 spread liquid waste?

17 A Yes.

18 Q And so that was only that waste produced at

19 the commercial layer facilities that were owned by

20 George's or managed by George's? 03:42PM

21 A Yes. They only handled the liquid manure from

22 the commercial egg operation.

23 Q Terra Resources would prepare the application

24 reports; correct; when applications would occur of

25 that liquid waste, they would prepare the 03:42PM

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1 application reports --

2 MR. GRAVES: Object to the form.

3 Q -- that were required to be made?

4 A I don't know if --

5 Q I'm not trying to trick you. I've got another 03:42PM

6 exhibit here that will probably make it easier for

7 all of us. Let me hand you Exhibit 16. That will

8 help you maybe respond to that question.

9 MR. GRAVES: What exhibit number is this?

10 MR. GARREN: 16. 03:43PM

11 Q The first page of this exhibit appears to be a

12 handwritten note by Monte Terry talking about the

13 change from TRS beginning in January of 2002, does

14 it not?

15 A Yes. 03:43PM

16 Q That's probably when this occurred, the

17 changeover from George's applying to TRS applying

18 for George's?

19 A Yes.

20 Q So before that day, is it -- am I correct in 03:44PM

21 understanding that up until January of 2002 George's

22 would have applied the liquid waste generated by any

23 of its company-owned or managed facilities?

24 A Yes.

25 Q There is on the third page of this Exhibit 16 03:44PM

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1 a typed schedule and it says solid poultry litter

2 application record. Is this a document that

3 George's creates or is this a document that was

4 created and presented to George's for its records?

5 A I personally do not know. 03:44PM

6 Q Okay. So sitting here today, George's doesn't

7 know either then, do they, at least in being able to

8 tell us in this deposition; would you agree?

9 A I would agree.

10 Q Who would most likely be the person 03:45PM

11 knowledgeable about that question and answer?

12 A The person that would most likely be able to

13 answer that would either be Monte Terry or Allen

14 Lauber.

15 Q Let me just ask you if you know anything from 03:46PM

16 this form as it pertains to the column that says

17 litter area. It says -- I'm sorry. It says litter

18 applied, area covered, litter applied. It's a

19 vertical statement there. It says tons, acres, tons

20 per acre. To your knowledge is the liquid waste 03:46PM

21 application reported as tons per acre?

22 A Yes, I believe it is.

23 Q So when we saw that letter or that complaint

24 earlier that dealt with the Department of Ag talking

25 about 28,000 gallons per acre -- 03:46PM

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1 MR. GRAVES: That was 2,800.

2 Q 2,800. I apologize. 2,800 gallons per acre,

3 is there a conversion factor that one would use to

4 show that as tons per acre?

5 A I don't know. 03:47PM

6 Q Okay. This speaks to solid poultry litter.

7 Is it possible this is dealing with dry litter or do

8 you know; does George's know about that at this

9 point in this deposition?

10 A I don't know. 03:47PM

11 Q All right. Let's go at it this way: Has

12 George's owned and operated broiler farms also in

13 the IRW?

14 A Broiler farms?

15 Q Yes, sir. 03:48PM

16 A Yes. The Morrison Farm is a company-owned and

17 operated broiler farm.

18 Q Did -- does George's spread the poultry waste

19 generated at the Morrison broiler farm also? 03:48PM

20 MR. GRAVES: Object to the form.

21 A No. In years past litter off that farm would

22 have been spread locally but for the last five or

23 six years all that litter has been exported.

24 Q Before it became exported, and we'll talk

25 about that in a second, did George's do the actual 03:48PM

52 (Pages 202 to 205)

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1 applications or did they contract somebody to do it  
2 for them, similar to what we've been talking about  
3 with TRS?

4 A Both. They would have spread some and they  
5 would have contracted some. 03:49PM

6 Q And when they spread it, they would have  
7 spread it on its own land, George's own land or  
8 would it in fact spread it on a third-party's land?

9 A It could very well have been on a  
10 third-party's land. If a neighboring farmer wanted 03:49PM  
11 litter for his pasture, George's may well have sold  
12 him some litter to put on his pasture.

13 Q But first choice generally would have been  
14 onto George's land first and then to someone else's?

15 MR. GRAVES: Object to the form. 03:49PM

16 A To the extent that George's needed the litter  
17 for fertilizer.

18 Q Did George's at any time provide an  
19 application service for any of its contract growers?

20 A No. 03:49PM

21 Q Did it ever provide a clean-out service,  
22 meaning poultry litter waste clean-out service for  
23 any of its contract growers?

24 MR. GRAVES: Object to the form.

25 A No. 03:49PM

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1 Q What became of the spreading trucks that  
2 George's had after it started contracting with TRS?  
3 A One of those trucks we cleaned up and use as a  
4 water truck, water tanker. The other trucks were  
5 sold or disposed of. 03:50PM

6 Q When TRS took over the application from  
7 George's, who was responsible for obtaining soil  
8 tests for fields where application was to occur?

9 A I don't know.

10 MR. GRAVES: Rick, we sold some of our 03:51PM  
11 knowledge a couple months ago. You'll have to ask  
12 Bob Sanders for it now.

13 Q At that same time who would have been  
14 responsible for obtaining the waste analysis report  
15 for the waste spread by TRS? 03:51PM

16 A I don't know.

17 Q So when TRS took over the manure analysis, you  
18 don't know whether TRS did that or whether or not  
19 George's did that?

20 A I honestly can't speak to that. I just don't 03:52PM  
21 know.

22 Q Okay. Let me hand you what's been now marked  
23 as Exhibit 9 and ask you to look at that document,  
24 please. These documents will not be in numerical  
25 order either as they have been spread through 03:53PM

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1 various different folders or files and records. Do  
2 you know what this document is, at least the first  
3 page of this Exhibit 9?

4 A It's a litter analysis.

5 Q Actually it's a liquid manure for fertilizer 03:53PM  
6 analysis, would you agree, dated March of '01?

7 A Yes, I would agree.

8 Q It appears that this is from -- the manure  
9 from the Musteen and Feemster Farms, which were  
10 George's operations; correct? 03:53PM

11 A Correct.

12 Q When those samples are obtained for these  
13 tests, who would be responsible for doing that?

14 A At that time it would have been Harvey  
15 Hinshaw. 03:53PM

16 Q Were the Feemster and Musteen Farms always  
17 layer farms, egg operations?

18 A Yes.

19 Q If you would look to the third -- well, let's  
20 start over. Let's start at the first page and where 03:54PM  
21 it says manure type, in the first column it says  
22 none given and in the second one it says LAG period  
23 liquid. Do you understand that to mean lagoon?

24 A I would take it as that.

25 Q And when it refers to a lagoon, is that the 03:54PM

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1 container you described earlier or is it some other  
2 type of holding facility?

3 A That would be a container.

4 Q All right. Skipping over to the third page of  
5 this document at 34033, there's another analysis in 03:54PM  
6 2003 for the Feemster and it refers to the holding  
7 pond. Again, for terminology, is that the same as  
8 the container that you've described would be  
9 catching the liquid manure?

10 A Yes. 03:55PM

11 Q The cage facilities don't have a separate  
12 lagoon that the container would be pumped to and  
13 held; is that a correct statement?

14 A That is correct.

15 Q The next page shows a different type of form 03:55PM  
16 but it lists the various farms that I believe have  
17 been identified as George's Farms or owned and  
18 managed. This is going to be a dry waste analysis.  
19 Is that what I'm looking at?

20 MR. GRAVES: Object to the form. 03:55PM

21 A It's a dry litter analysis.

22 Q Skip over to Page 35340, two more pages. Can  
23 you tell me why in this time frame of 2003 this  
24 particular analysis would include all the extra  
25 metals that we see sampled here; what would be the 03:56PM

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1 purpose for obtaining this type of analysis?  
 2 A We would not have requested it to be that way.  
 3 That's just the way the University ran them because  
 4 the report -- if you look at the report description,  
 5 it's identical. NPK of poultry litter is the report 03:56PM  
 6 description on both of them. I don't know why the  
 7 University ran it that way.  
 8 Q I'm going to change subjects on you. I'm  
 9 going to inquire about Area 31, which is the manner  
 10 and method used to modify any procedures used by 03:57PM  
 11 George's or those contracted with George's regarding  
 12 the handling, storage and use of poultry waste as a  
 13 result of the settlement reached in the case of the  
 14 City of Tulsa versus Tyson, Inc., et al, in the  
 15 Northern District of Oklahoma. Do you recognize 03:57PM  
 16 that case as being the Eucha-Spavinaw case?  
 17 A I do.  
 18 Q Can you tell me what, if any, changes George's  
 19 made in its operations in the IRW as a result of  
 20 what it learned in the City of Tulsa case? 03:57PM  
 21 MR. GRAVES: I'm objecting to the form and  
 22 directing him not to answer on the basis of the  
 23 previous order by the court with regard to discovery  
 24 about the City of Tulsa case.  
 25 Q Has George's changed its method of operation 03:57PM

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1 very first application schedule, which is the third  
 2 page of that document.  
 3 A Okay.  
 4 Q There's a period there for -- well, there's a  
 5 column rather for application site with a legal 03:59PM  
 6 description under a section, township and range.  
 7 A Yes.  
 8 Q Do you have any knowledge or understanding  
 9 where Section 27 and 28 of Township 20, range and 25  
 10 -- I'm sorry, Section 27 and 28 of township -- and 04:00PM  
 11 Range 20-25, do you have any idea where those are?  
 12 It doesn't show it by that exhibit. You don't  
 13 recognize that township, section or range I presume?  
 14 A No, I don't.  
 15 Q I've prepared a map to help you. I'm going to 04:00PM  
 16 hand you what's been marked as Exhibit 17, and this  
 17 is a two-page exhibit, and the reason for the second  
 18 page is to magnify or blow up the township, section  
 19 and range indicators of the first page.  
 20 MR. GRAVES: Where does this come from? 04:01PM  
 21 MR. GARREN: I prepared this.  
 22 MR. GRAVES: What's the exhibit number?  
 23 MR. GARREN: This will be 17.  
 24 MR. GRAVES: Possibly the witness testified  
 25 based on the title of this particular report that 04:01PM

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1 in the handling, storage or use of poultry waste  
 2 within the last six years?  
 3 A On our -- on the company-managed farms, we now  
 4 export all of that litter out of the sensitive  
 5 watersheds. 03:58PM  
 6 Q And when you say sensitive watersheds, what  
 7 watersheds are you referring to?  
 8 A The Illinois River watershed. We take it all  
 9 the way to northeast Arkansas so we get it -- we get  
 10 it completely out of northwest Arkansas. 03:58PM  
 11 Q When you say we take it out, what are you  
 12 taking out?  
 13 A All of the broiler litter off of the  
 14 company-managed farms.  
 15 Q Okay, and you don't have liquid waste 03:58PM  
 16 producing farms anymore as a result of the recent  
 17 sale; correct?  
 18 A That is correct.  
 19 Q What were you doing with the liquid waste  
 20 that's generated prior to its sale? 03:58PM  
 21 A It was being land applied.  
 22 Q Within the IRW; correct?  
 23 A I don't know specifically where it was being  
 24 land applied.  
 25 Q If you look back at 16 and just look at the 03:59PM

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1 we're referring to in Exhibit 16 that he wasn't  
 2 entirely certain that that was liquid but --  
 3 MR. GARREN: I understand, but it is some  
 4 kind of a waste application and, I agree, we don't  
 5 know what kind at this point from his testimony. 04:01PM  
 6 Q But if you look at this together with the  
 7 third page of Exhibit 16, I have mapped the various  
 8 locations that actually appear throughout this  
 9 entire exhibit but we can only for purpose of our  
 10 question just deal with the first page, and do you 04:01PM  
 11 see where Section 27 and 28 of 20-25 is within a  
 12 very short distance of the source of the litter in  
 13 Section 18, north 33 east; can you see that from  
 14 what I've done here?  
 15 A Yes, I can see it. 04:02PM  
 16 Q And I will represent to you that the outline,  
 17 the squiggly line, if you would -- I may point to  
 18 show you. This line represents the border of the  
 19 Illinois River watershed.  
 20 A Okay. 04:02PM  
 21 Q So it would appear that at least that part of  
 22 the application occurred within the watershed;  
 23 correct?  
 24 A It would appear that.  
 25 Q And it would appear that in fact all of the 04:02PM

<p style="text-align: right;">Page 214</p> <p>1 application sites for the waste generated in 2 Arkansas were deposited into the state of Oklahoma? 3 MR. GRAVES: Object to the form of the 4 question. 5 A Can we take a quick break? Is it okay if we 04:02PM 6 take a break? 7 Q If you would like to take a break to review 8 this or what? 9 A I'd like to take a break to visit with James 10 for a minute. Can we do that or do we need to keep 04:03PM 11 going? 12 MR. GRAVES: As long as you don't have a 13 problem with it. Do you want to clarify something? 14 Q You can't answer that question before the 15 break? 04:03PM 16 A No, I can't. 17 MR. GARREN: We'll take a break. 18 VIDEOGRAPHER: We're now off the Record. 19 The time is 4:03 p.m. 20 (Following a short recess at 4:03 p.m., 04:03PM 21 proceedings continued on the Record at 4:06 p.m.) 22 VIDEOGRAPHER: We are back on the Record. 23 The time is 4:06 p.m. 24 Q Knowing that I prepared this but it appears 25 that from this record and this map of the locations, 04:06PM</p>	<p style="text-align: right;">Page 216</p> <p>1 Q So it would appear that what I just referred 2 to you as Section 27, 28 of 20-25 is in fact in 3 Oklahoma; correct? 4 A Correct. 5 Q Let's look at another one. There is a land 04:08PM 6 application at Sections 5, 7 and 8 shown on Page 7 34068 in 18 north, 25 east. Does it appear to you 8 that those sections are in the state of Oklahoma? 9 A 18 north, 25 east would be in the state of 10 Oklahoma. 04:09PM 11 Q There's one application page at least that 12 reports Route 1, Jay, Oklahoma, doesn't have a 13 township, section or range, but we know Jay is in 14 Oklahoma; correct? 15 A Yes, Jay, Oklahoma is in Oklahoma. 04:09PM 16 Q And we've established that Township 20 north, 17 Range 25 east is in Oklahoma; correct? 18 A Correct. 19 Q And there's another application page showing 20 Township 19 north, Range 25 east. That is also in 04:09PM 21 Oklahoma, is it not? 22 A Yes. 23 Q At least for those examples, we're showing 24 those sites of application did occur in Oklahoma; 25 correct? 04:10PM</p>
<p style="text-align: right;">Page 215</p> <p>1 all of the applications that occurred and noted in 2 Exhibit 16 were deposited into the state of 3 Oklahoma? 4 MR. GRAVES: Object to the form. 5 A And that's what I got uncomfortable about. 04:07PM 6 Assuming the accuracy of your work on this map and 7 me not being a surveyor or not having prepared this, 8 assuming the accuracy of your work on this map, I 9 will agree with that, that those applications were 10 in Oklahoma. 04:07PM 11 Q Let's just check a couple of them just so we 12 do feel comfortable. 13 A Okay. 14 Q You might look at the second page to help 15 answer that question because it's easier to see. 04:07PM 16 Can you locate Section 27 and 28 of Township 20 17 north, Range 25 east on the second page of this map? 18 A Let me get on in here. 19 Q All right. 20 north, 25 east, Section 27 and 20 28. 04:08PM 21 A Yes. 22 Q And I'll represent to you that vertical line 23 that goes across this map is the state of Oklahoma 24 and the state of Arkansas boundaries. 25 A That's fine. 04:08PM</p>	<p style="text-align: right;">Page 217</p> <p>1 A Okay. 2 Q All right. I'm going to inquire about Area 34 3 and it speaks to this: The differences in the 4 method, manner, direction or management of your 5 poultry growing operations in Oklahoma compared to 04:10PM 6 Arkansas within the IRW. Does George's approach its 7 management of either its grower-managed or owner -- 8 owned farms in any way different in Arkansas versus 9 Oklahoma? 10 A Only from the standpoint that local and state 04:11PM 11 laws or regulations may be different, and we ask 12 that our growers abide by all local, state and 13 federal laws that apply. So as the laws of Oklahoma 14 might be different than the laws of Arkansas, then 15 we would expect them -- but as far as the way we 04:11PM 16 address those individuals, we go about our business 17 with those folks, there are no other differences. 18 Q With regard to contract growers, would your 19 response be the same if I asked you do you treat 20 them differently in either Arkansas or Oklahoma? 04:11PM 21 MR. GRAVES: I'm going to object to the 22 form simply because I thought the last question you 23 said grower. 24 MR. GARREN: Contract grower? 25 MR. GRAVES: Well, you said grower. You 04:12PM</p>



<p style="text-align: right;">Page 218</p> <p>1 used the word grower. I'm not --</p> <p>2 MR. GARREN: Let me back up then. I don't</p> <p>3 mean to confuse the issue, and I apologize if I did.</p> <p>4 Let's start over.</p> <p>5 Q I'll ask you with regard to company-owned or 04:12PM</p> <p>6 managed farms, does George's treat those in its</p> <p>7 method, manner and direction of management</p> <p>8 differently in Oklahoma than Arkansas other than the</p> <p>9 application of the laws for those states?</p> <p>10 A We don't have any company-managed farms in 04:12PM</p> <p>11 Oklahoma. They're all in Arkansas, so --</p> <p>12 Q In the past have you ever had company-managed</p> <p>13 farms?</p> <p>14 A Not poultry farms.</p> <p>15 Q What kind of farms have you had? 04:12PM</p> <p>16 A We had a cattle farm over there. That's all.</p> <p>17 Q Okay. With regard to contract growers then,</p> <p>18 does George's treat the contract growers in a</p> <p>19 method, manner and direction of its management of</p> <p>20 those contract growers differently in Arkansas than 04:12PM</p> <p>21 in Oklahoma other than the laws that might apply to</p> <p>22 them?</p> <p>23 A None other than the state laws that would</p> <p>24 apply.</p> <p>25 Q Let me hand you a document that's been marked 04:13PM</p>	<p style="text-align: right;">Page 220</p> <p>1 hardships to local farming operations. Does</p> <p>2 George's recall that was the purpose of this</p> <p>3 project?</p> <p>4 MR. GRAVES: Object to the form.</p> <p>5 A That's what the report says was the purpose of 04:15PM</p> <p>6 the project. I don't know how I could argue with</p> <p>7 that.</p> <p>8 Q And I don't mean to be that way. I'm just</p> <p>9 trying to formulate the next question. That is, do</p> <p>10 you know what, if any, contribution George's may 04:16PM</p> <p>11 have made to this project?</p> <p>12 MR. HIXON: Object to form.</p> <p>13 A I don't know.</p> <p>14 Q Do you know then if George's growers, contract</p> <p>15 or otherwise, would have participated in this 04:16PM</p> <p>16 program?</p> <p>17 A George's growers could have very well</p> <p>18 participated in the program. They would not have</p> <p>19 needed our okay or permission to do so.</p> <p>20 Q Does George's understand the statement that I 04:17PM</p> <p>21 read that's at the bottom of that paragraph on that</p> <p>22 Page 3 about the ultimate goal was to reduce</p> <p>23 nutrient, bacterial and sediment transport to ground</p> <p>24 and surface water supplies; does George's understand</p> <p>25 what that says? 04:17PM</p>
<p style="text-align: right;">Page 219</p> <p>1 as Exhibit 14 and ask you whether or not George's is</p> <p>2 familiar with the project that is described in this</p> <p>3 document. Did I say 14? I meant 13. What did I</p> <p>4 mark it?</p> <p>5 A You marked it 14. 04:14PM</p> <p>6 Q Let me remark it because that's the one that I</p> <p>7 pulled out before that was wrong. I'll make that 13</p> <p>8 then. I apologize. Does George's have knowledge or</p> <p>9 recollection of the Moore's Creek project in the</p> <p>10 Muddy Fork portion of the Illinois River watershed? 04:14PM</p> <p>11 A George's has knowledge of this because I've</p> <p>12 seen it before.</p> <p>13 Q On the second page of this document it gives a</p> <p>14 list of project partners and it says poultry</p> <p>15 integrators about halfway down in that list. Did 04:14PM</p> <p>16 George's in fact partner this project as one of</p> <p>17 those integrators?</p> <p>18 A I don't know if George's did or didn't.</p> <p>19 Q Who would be the person most likely to know?</p> <p>20 A Ancel McClane. 04:15PM</p> <p>21 Q Looking at the next page of that document, the</p> <p>22 last paragraph of that page, it says the ultimate</p> <p>23 goal of the Moore's Creek project was to reduce</p> <p>24 nutrient, bacterial and sediment transport to ground</p> <p>25 and surface water supplies without causing economic 04:15PM</p>	<p style="text-align: right;">Page 221</p> <p>1 A Yes, George's understands what that says.</p> <p>2 Q What does -- tell me in George's words what it</p> <p>3 means.</p> <p>4 A That the ultimate -- I mean I can reread it to</p> <p>5 you. I'm not going to read what it says. 04:17PM</p> <p>6 Q That's fine. Let's find Exhibit 20, if you</p> <p>7 would, sir. It's the stack of contracts dealing</p> <p>8 with growers. Look at the second contract. I</p> <p>9 believe that is the George's of Missouri, Inc.,</p> <p>10 contract starting with Page 7241; do you see that 04:19PM</p> <p>11 one?</p> <p>12 A Yes.</p> <p>13 Q There's an Addendum D attached to that. It's</p> <p>14 7253 that says George's Missouri, Inc., dry poultry</p> <p>15 litter handling, best management practices Addendum 04:19PM</p> <p>16 D; do you see that document there?</p> <p>17 A I do.</p> <p>18 Q Do you know when George's first required as</p> <p>19 part of its contract those best management practices</p> <p>20 that we see in this page or those best management 04:20PM</p> <p>21 practices similar to this?</p> <p>22 A That goes back to approximately '91 or '92.</p> <p>23 Q That's good. Thanks. I had it back to '90 in</p> <p>24 my mind but it's about in that time frame; would you</p> <p>25 agree? 04:20PM</p>

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1 A Yes, I would agree.  
 2 Q And it was made -- the point of my question  
 3 is, was it made a part of the contract that the  
 4 growers were to do that?  
 5 A The Addendum D was put in there as an interim 04:20PM  
 6 set of guidelines until a grower could get a  
 7 nutrient management developed at NRCS or the  
 8 equivalent of the NRCS in Oklahoma. Once the grower  
 9 has that nutrient management plan that is tailored  
 10 for his farm, then the nutrient management plan 04:21PM  
 11 takes precedent over this.  
 12 Q And the purpose of George's doing that was to  
 13 start at that time at least some process by which  
 14 its growers would start protecting the water from  
 15 any nutrient applications to the fields; is that a 04:21PM  
 16 fair statement?  
 17 MR. GRAVES: Object to the form.  
 18 A It was put in there to help -- it was put in  
 19 there to help educate the growers and to give the  
 20 growers a framework or a set of working guidelines 04:21PM  
 21 to help prevent problems.  
 22 Q And those problems would be to ensure water  
 23 quality; would you agree?  
 24 MR. GRAVES: Object to the form.  
 25 A Maintaining -- yeah, that would be the 04:22PM

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1 ultimate goal.  
 2 Q And I agree my form probably isn't as good  
 3 when I said -- what I mean to say is that those best  
 4 management practices were designed in order to 04:22PM  
 5 protect water quality from nutrients entering it; is  
 6 that a fair statement?  
 7 MR. GRAVES: Object to the form.  
 8 A In the event -- through normal rational  
 9 responsible practices a person wouldn't need this.  
 10 Q Would or would not? 04:23PM  
 11 A Would not need this.  
 12 Q And when you say this, you mean the best  
 13 management practices?  
 14 A Yes, yes, but when this set of best management  
 15 practices was put together by these folks that are 04:23PM  
 16 listed, the agencies that are listed at the bottom,  
 17 George's as did -- well, George's felt like that by  
 18 attaching this to the contract, that in the event  
 19 that you had an individual buy a farm that had no  
 20 background, they had no experiences to draw from as 04:24PM  
 21 to what would be reasonable and what would not be  
 22 reasonable, that they could read this and this would  
 23 give them a set of guidelines that would help them  
 24 to manage their farm and not be a risk until they  
 25 could get that nutrient management plan developed. 04:24PM

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1 Q Would you agree with me that this indicates  
 2 that somewhere someone had determined there was in  
 3 fact risk to water quality, thus best management  
 4 practices needed to go into effect?  
 5 MR. GRAVES: Object to the form, assumes 04:25PM  
 6 facts not in evidence.  
 7 A There are always -- there's always a chance of  
 8 a risk in anything that we do and the further we  
 9 deviate from what's normal or rational thinking, the  
 10 greater that risk would be, and this is -- if you 04:25PM  
 11 read these, these are not real specific; they're not  
 12 real detailed; they're not real hard to follow.  
 13 It's just a simple set of guidelines. It's a simple  
 14 framework that says to a grower if you don't  
 15 know anything about -- if you never had any 04:25PM  
 16 experience with handling litter, you do these  
 17 things: Don't store it outside unless you got  
 18 proper runoff control; don't apply over two and a  
 19 half tons per acre at a time and over five tons a  
 20 year; don't put it on the ground if it's raining or 04:25PM  
 21 snow covered. These are simple things. These are  
 22 not real technical. You just do these things and  
 23 you're fine. This isn't telling the grower or  
 24 anybody else that this stuff is so dangerous that  
 25 you got to handle it with gloves and wear -- that's 04:26PM

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1 not what it's saying. What it's saying is there's a  
 2 simple framework here that if you follow these  
 3 simple things, that there's no problem.  
 4 Q Isn't it apparent from the fact that this  
 5 framework is now being required or requested to be 04:26PM  
 6 followed, there was a clear indication of water  
 7 quality problems already existing?  
 8 MR. GRAVES: Object to the form.  
 9 A No, I don't think that's what it says at all.  
 10 Q And George's is of the opinion that in 1990 or 04:26PM  
 11 1992 there was no water quality issues being raised  
 12 in the industry?  
 13 MR. GRAVES: Object to the form and object  
 14 to having our 30(b)(6) rep respond on behalf of an  
 15 industry. 04:26PM  
 16 MR. GARREN: I didn't ask him to respond on  
 17 behalf of the industry.  
 18 Q My question is, was George's concerned? We  
 19 can restate it but -- do you understand the  
 20 question? 04:26PM  
 21 A Please ask the question again.  
 22 (Whereupon, the court reporter read  
 23 back the previous question on Page 225, Lines  
 24 10-12.)  
 25 MR. GRAVES: You are asking him about the 04:27PM

57 (Pages 222 to 225)

Page 226

1 industry.

2 MR. GARREN: I'm asking George's opinion in  
3 1990 whether or not water quality issues were being  
4 raised in the industry.

5 A Water quality issues have been being raised 04:27PM  
6 for a long time. As you look at wastewater  
7 treatment plants that are having to be upgraded, as  
8 you look at the tremendous expansion and population  
9 growth and construction throughout northwest

10 Arkansas and the Illinois River watershed, as you 04:27PM  
11 look at what once was pasture land that litter could  
12 be applied on according to the nutrient management  
13 plan, there are more problems that have been turned  
14 into subdivision and concrete. When you add all

15 that up into some -- when you put all that in a 04:28PM  
16 pile, there have been people raising questions about  
17 water quality, okay? To say that the poultry  
18 industry or that George's in particular is

19 responsible for any of that is ridiculous. We  
20 didn't invite all these people to move in. We 04:28PM  
21 didn't build the wastewater treatment plants. We're  
22 not responsible for all those.

23 Q Are you telling me that George's does not  
24 assume any responsibility for any of the phosphorus  
25 entering into the Illinois River watershed? 04:28PM

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1 MR. GRAVES: Object to the form of the  
2 question, argumentative.

3 A George's feels like the water quality issue in  
4 northwest Arkansas, and particularly the Illinois  
5 River watershed, is an extremely complex, 04:28PM  
6 multi-faceted problem that is much greater than the  
7 poultry industry and certainly much greater than  
8 George's.

9 Q Let me hand you what's been marked as Exhibit  
10 19. Do you recognize that document? I'll represent 04:29PM  
11 to you that the second page is a full page ad taken  
12 from the newspaper, The Oklahoman, on September 10,  
13 2004. The first page is simply a blow-up in order  
14 to be able to read the language that was in that ad.  
15 Does George's have familiarity with the logo at the 04:29PM  
16 lower middle portion of this page?

17 A Yes, it does.

18 Q Did George's support and promote this ad?

19 A Yes, it did.

20 Q And when you read near the bottom the next to 04:29PM  
21 the last paragraph it says, our scenic river  
22 watersheds are complex environments that include  
23 many sources of nutrients that potentially impact  
24 the health of the rivers and streams that lie within  
25 them. We are prepared to do our part to take care 04:29PM

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1 of the poultry portion of the nutrient equation.

2 Did I read that correctly?

3 A Yes, you did.

4 Q And did I read that to understand that we, as  
5 the integrators who promoted and sponsored this ad, 04:30PM  
6 saying that they are going to take their -- they're  
7 prepared to take their part of the poultry portion  
8 of the nutrient equation; I assume that means their  
9 responsibility for what they've done; is that a fair  
10 statement? 04:30PM

11 MR. GRAVES: Object to the form.

12 MR. HIXON: Object to form.

13 A No, I don't believe that's what it means.

14 Q Let's take a break and we'll come back and see  
15 what you think it means. 04:30PM

16 VIDEOGRAPHER: We are now off the Record.

17 The time is now 4:30 p.m.

18 (Following a short recess at 4:30 p.m.,  
19 proceedings continued on the Record at 4:34 p.m.)

20 VIDEOGRAPHER: We are back on the Record. 04:34PM  
21 The time is 4:34 p.m.

22 Q What does it mean to George's when it says we  
23 are prepared to do our part to take care of the  
24 poultry portion of the nutrient equation?

25 A At George's we understand that we deal with 04:34PM

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1 nutrients. There are nutrients in the feed that we  
2 haul out to feed our chickens. There are nutrients  
3 in the litter that's in the house when the chickens  
4 leave. What we feel is that by working with the  
5 NRCS and those folks that are out there on the 04:35PM  
6 ground writing these plans that understand the

7 watersheds and requiring our growers to have the  
8 nutrient management plans and encouraging them to  
9 follow them and then when we know that there is  
10 excess litter beyond what local lands can -- beyond 04:35PM  
11 what can be applied on local lands, then we'll put  
12 that on the truck and we'll haul it out, and as

13 George's, for the last five years we've spent over a  
14 quarter million dollars a year hauling litter out of  
15 the Illinois River watershed. Now, that's making a 04:35PM  
16 significant contribution and we feel like that's  
17 doing our part.

18 Q Okay. Let me hand you what's been marked as  
19 Plaintiff's Exhibit 10. Does George's know of a  
20 person named Martin Maner in the water quality 04:36PM  
21 division of the Arkansas Department of Pollution  
22 Control & Ecology?

23 A I do not know Martin Maner.

24 Q When you say I, are you talking about yourself  
25 personally? 04:37PM

58 (Pages 226 to 229)

Page 230

1 A I'm talking about myself personally.  
 2 Q Do you know whether or not George's has any  
 3 knowledge of Martin Maner?  
 4 A I do not know if anyone in George's has a  
 5 relationship with or knows Martin Maner. 04:37PM  
 6 Q Is George's familiar with the department of  
 7 water quality and what is now known as the ADEQ?  
 8 A Yes, George's is familiar with the ADEQ.  
 9 Q In the introduction paragraph, the first  
 10 paragraph, the last sentence it says, when referring 04:37PM  
 11 to waste from animal production being disposed of by  
 12 land, it says these wastes are high in nitrogen and  
 13 phosphorus and may contribute nutrients to  
 14 groundwater or surface water via percolation and  
 15 runoff. Does George's have an opinion that that 04:38PM  
 16 statement is true?  
 17 MR. GRAVES: We have the same objection as  
 18 earlier with regard to not establishing whether this  
 19 is a report that George's has seen, and we're not  
 20 going to answer questions about reports we haven't 04:38PM  
 21 seen.  
 22 MR. GARREN: This report is on the State's  
 23 disclosure list, initial disclosure list.  
 24 MR. GRAVES: That's fine. That doesn't  
 25 mean it's anything that George's has seen. 04:38PM

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1 MR. HIXON: Richard, the marks that are on  
 2 this document, are these your marks?  
 3 MR. GARREN: Those are highlights that  
 4 apparently were left by our copier.  
 5 Q So as I understand your counsel's statement, 04:38PM  
 6 George's has no opinion and is refusing to answer my  
 7 question with regard to whether it does?  
 8 A Ask the question one more time, please.  
 9 Q Does George's have an opinion whether or not  
 10 that statement I just read to you about wastes that 04:38PM  
 11 are high in nitrogen and phosphorus may contribute  
 12 nutrients to groundwater or surface water via  
 13 percolation and runoff?  
 14 A What kind of waste are you referring to?  
 15 Q Animal waste. 04:39PM  
 16 MR. GRAVES: I'm going to object for the  
 17 same --  
 18 A Cattle, horse, mule, I mean --  
 19 Q Animal waste. Do you have an opinion whether  
 20 or not that statement is true? 04:39PM  
 21 MR. GRAVES: I'm going to object for the  
 22 same reasons already stated. We're not going to be  
 23 cross examined on items that weren't listed in the  
 24 notice and reports that haven't been established  
 25 that George's has ever seen, and I'm going to 04:39PM

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1 instruct the witness not to answer.  
 2 Q Does George's know whether chicken manure has  
 3 a higher phosphorus to nitrogen ratio than is  
 4 utilized by plants?  
 5 A I don't believe that George's could answer 04:39PM  
 6 that in the sense that what species of plant are we  
 7 talking about, what litter assay are we talking  
 8 about, what is the level of production? The  
 9 variables there are too great to answer that as a  
 10 blanket yes or no. 04:40PM  
 11 Q George's has operations in Missouri; correct?  
 12 A Yes, that is correct.  
 13 Q I'm going to hand you what is called a  
 14 Missouri Resource Review article marked as Exhibit  
 15 11 and ask you whether or not George's is familiar 04:40PM  
 16 with this article or the thing that it talks about,  
 17 which is the poultry task force, which is a  
 18 nine-member task force in Missouri comprising of the  
 19 poultry industry and the Department of Agriculture  
 20 and the University of Missouri Extension Service. 04:41PM  
 21 Is George's familiar with the project?  
 22 A George's is familiar with the poultry task  
 23 force.  
 24 Q Did George's participate in that task force?  
 25 A No, I don't believe that George's participated 04:41PM

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1 in that task force.  
 2 Q Would it have reviewed published materials  
 3 regarding what that task force found or did or  
 4 reported?  
 5 A Yes, it would have. 04:41PM  
 6 Q Let me hand you what's been marked Exhibit No.  
 7 12 and ask George's whether or not it's familiar  
 8 with Governor Clinton's task force on animal waste  
 9 and its final report of January of 1993. I'll  
 10 report to you for the Record this does not contain 04:42PM  
 11 the full report, this is just an excerpt, and was in  
 12 fact one used in the Simmons deposition because it  
 13 has a Simmons representative in it, but I'm asking,  
 14 is George's familiar with this governor task force  
 15 and this report? 04:42PM  
 16 A I'm not familiar with this document but I  
 17 can't say that no one at George's has seen it.  
 18 Q Can you say whether anyone at George's would  
 19 be familiar with the fact that Governor Clinton did  
 20 undertake this task force on animal waste? 04:42PM  
 21 A I can make an assumption that there would be  
 22 someone at George's that is familiar with that but I  
 23 can't say emphatically yes.  
 24 Q Who would most likely be the person at  
 25 George's that would have familiarity with a Governor 04:43PM

59 (Pages 230 to 233)



Page 234

1 Clinton task force?

2 A I can't say that anyone would have a greater

3 likelihood than another of having read this in 1993.

4 Q Does George's have an opinion whether there

5 exists environmental effects resulting from runoff 04:44PM

6 or release of poultry waste or any constituents

7 thereof from land or locations on which that poultry

8 waste has been stored, spread or disposed of?

9 MR. GRAVES: Object to the form, object to

10 it being compound. 04:44PM

11 A George's does not know of any specific

12 examples where litter that was stored on a piece of

13 property ran off and caused a specific problem.

14 Q I don't think I used the term specific. Does

15 George's have any general knowledge of whether or 04:44PM

16 not or an opinion as to general knowledge as to

17 whether there exists environmental effects resulting

18 from runoff or release of poultry waste from the

19 land or locations where it has been applied?

20 MR. GRAVES: Object to the form of that 04:45PM

21 question.

22 A Without having known that it's ever happened

23 or where it happened or when it happened, then I

24 don't know how we could have an opinion that it

25 would. 04:45PM

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1 Q Well, you remember in 1990 and 1992 George's

2 thought it was wise to include a best management

3 practices for their growers; correct?

4 A Uh-huh. 04:45PM

5 Q Did it not have some idea that there had been

6 some general discussions about environmental impacts

7 from poultry waste running off the land?

8 MR. GRAVES: Object to the form. Also

9 asked and answered as to how that came to be.

10 A Well, we kind of went through all that, and 04:46PM

11 I'm not going to tell you that George's has an

12 opinion on something that we don't know specifically

13 has ever happened.

14 Q Well --

15 A I mean I can have an opinion that if the moon 04:46PM

16 fell to the earth, it would shake the earth real

17 hard, but I don't know. It might not. It might

18 land real soft. I don't know.

19 Q Okay. What has George's done to attempt to

20 educate itself as to whether or not generally or 04:46PM

21 specifically poultry waste runoff has caused

22 environmental effects?

23 MR. GRAVES: Object to the form and

24 argumentative.

25 A We have worked really close with the NRCS, 04:46PM

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1 which are the local scientists on the ground. We

2 have nutrient management plans for all the farms

3 that we manage and our folks go out there with them

4 when we have those plans updated.

5 MR. GRAVES: Rick, you asked the question. 04:47PM

6 If you are going to sit there and roll your eyes at

7 him, we can stop the deposition.

8 Q Does George's --

9 MR. GARREN: He's not answering the

10 question. 04:47PM

11 MR. GRAVES: He is answering the question.

12 You just don't like the answer. We can stop and go

13 home.

14 MR. GARREN: No. We don't need to stop.

15 We're going to try to get the answer to the question 04:47PM

16 I've asked.

17 MR. GRAVES: He answered it repeatedly. If

18 you want to keep being rude to the witness, we'll

19 leave.

20 MR. GARREN: You just make your objection. 04:47PM

21 MR. GRAVES: Don't roll your eyes at the

22 witness anymore when he is answering your question.

23 MR. GARREN: He isn't answering the

24 question.

25 MR. GRAVES: He is answering the question. 04:47PM

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1 MR. GARREN: He didn't answer the question.

2 We're not going to argue about it and waste any more

3 time.

4 Q What did George's do to educate itself 04:47PM

5 regarding any environmental or human health effects

6 from poultry waste running off the land at any time?

7 MR. GRAVES: Object to the form.

8 A We are not aware of any human health effects

9 of poultry litter, and we've talked all day about

10 what we've done environmentally. 04:48PM

11 Q Let me ask you this question then: You said

12 you're not aware of any. What did you do to educate

13 yourself to make that determination; what did you

14 research to make a determination that would make you

15 now conclude you're not aware of any such 04:48PM

16 environmental impact?

17 MR. GRAVES: Object to the form, object to

18 the suggestion of burden shifting, object to the

19 argumentative nature and to the rude tone with the

20 witness. 04:48PM

21 A You can't intentionally not be aware of

22 something. If you're not aware of it, you're not

23 aware of it. I can't tell you that we went out and

24 educated ourself not to be aware. Okay? We have no

25 reason to believe that poultry litter has had any 04:48PM

60 (Pages 234 to 237)

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1 human health effects.  
 2 Q Martin Maner wrote in his paper in 1988 that  
 3 over 257,000 pounds per day of nitrogen, 87,400  
 4 pounds per day of phosphorus are generated daily in  
 5 a two-county area, referring to Benton and 04:49PM  
 6 Washington County. This is equivalent to a human  
 7 population of over 8 million people, and you mean to  
 8 tell me sitting here today George's didn't know that  
 9 there was a concern with that kind of nitrogen and  
 10 phosphorus going into the waters in these two 04:49PM  
 11 counties?  
 12 MR. GRAVES: Object to the form, object to  
 13 the suggestion that that means that there's human  
 14 health effects, and we've already established that  
 15 this is not a report that George's has said it has 04:50PM  
 16 seen, and we're not going to answer any questions  
 17 about it, and I'm instructing the witness not to  
 18 answer.  
 19 Q Does George's know whether blue green algae  
 20 can be harmful to the environment or humans? 04:50PM  
 21 A Can blue green algae be harmful?  
 22 Q Yes, sir.  
 23 A Just about anything can be harmful at a high  
 24 enough level and under the right conditions.  
 25 Q So what is your response? 04:50PM

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1 A How high a level, where's it at, how are you  
 2 going to be exposed to it? You know, is E. coli  
 3 harmful to you? Yeah, under the right conditions it  
 4 can be really harmful, but I bet you've got E. coli  
 5 on you right now. So just asking me is blue green 04:51PM  
 6 algae harmful, I don't know. Under what  
 7 circumstances? Are you going to ingest it, breathe  
 8 it, what?  
 9 Q Do you know of any circumstances where blue  
 10 green algae would be harmful to the environment or 04:51PM  
 11 humans?  
 12 MR. GRAVES: Object to the form.  
 13 A Specifically, no, I don't know.  
 14 Q Do you know whether or not certain levels of  
 15 dissolved oxygen have any impact on aquatic life? 04:51PM  
 16 MR. GRAVES: Object to the form.  
 17 A Certain levels would have an effect.  
 18 Q What levels would those be?  
 19 A I'm not a fishery biologist expert so I can't  
 20 tell you what levels those would be and I don't 04:51PM  
 21 believe anybody at George's could tell you that.  
 22 Q Do you know what causes changes to dissolved  
 23 oxygen in water?  
 24 MR. GRAVES: Object to the form.  
 25 A No, I don't. 04:51PM

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1 Q Does George's?  
 2 A I don't believe George's knows.  
 3 Q Does George's know if bacteria in water can be  
 4 harmful to humans or the environment?  
 5 MR. GRAVES: Object to the form. 04:52PM  
 6 A George's knows every time you take a drink of  
 7 water, unless it has just been sterilized, there's  
 8 bacteria in it. At certain levels and certain  
 9 species it can be very bad, but we drink bacteria  
 10 every time we take a drink. 04:52PM  
 11 Q Does George's know if bacteria in soil can be  
 12 harmful to humans or the environment?  
 13 A George's knows that in every milliliter of  
 14 soil that you would pull up there's bacteria in it.  
 15 It's naturally occurring. 04:52PM  
 16 Q Does George's know if bacteria in soil can be  
 17 harmful to humans or the environment?  
 18 MR. GRAVES: Object to the form.  
 19 A Again, that depends on the circumstances, the  
 20 conditions. That is way too broad of a statement to 04:52PM  
 21 even try to agree to.  
 22 Q Does George's know if fecal coliform in the  
 23 water can be harmful to humans or the environment?  
 24 MR. GRAVES: Object to the form.  
 25 A Fecal coliform can be found in pretty much 04:52PM

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1 every body of water. Again, it depends on what  
 2 level and the exposure rate and the conditions under  
 3 which you are exposed.  
 4 Q Would you agree with me then at certain levels  
 5 it can be harmful? 04:53PM  
 6 A At certain levels it can be harmful.  
 7 Q And would you agree with me that fecal  
 8 coliform in the soil at certain levels can be  
 9 harmful to the environment or human health?  
 10 MR. GRAVES: Object to the form. 04:53PM  
 11 A There have been fecal coliforms in the soil  
 12 ever since the very first animal deposited waste on  
 13 the ground. It's naturally occurring. At certain  
 14 levels but I don't know what those levels are and  
 15 George's does not know what those levels are. 04:53PM  
 16 Q How many tons of poultry waste is produced in  
 17 a single broiler house, standard size?  
 18 MR. GRAVES: Object to the form of the  
 19 question.  
 20 A In a 40 by 400 foot house you'll provide about 04:53PM  
 21 a hundred tons of poultry litter a year.  
 22 Q And how does George's know that?  
 23 A Just through general knowledge of being in the  
 24 poultry industry for as long as we have.  
 25 Q Has George's ever done anything in the recent 04:54PM

61 (Pages 238 to 241)

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1 past to determine the validity of that estimate of a  
 2 hundred tons per 40 by 400 house?  
 3 A The circumstances -- there are a lot of  
 4 variables that add up to how many tons of litter is  
 5 going to come out of that house, how many flocks  
 6 have you raised on it, is it big birds or little  
 7 birds, how much bedding did you put in the last time  
 8 you cleaned out, how long has it been since you  
 9 cleaned out, what's the moisture content in the  
 10 litter? There are rules of thumb, and you say a  
 11 hundred tons out of a 400-foot house. That's a good  
 12 rule of thumb, but to go back and prove that, you  
 13 may get 80 tons out of one and 120 tons out of  
 14 another.

04:54PM

15 Q Identify and describe all efforts George's has  
 16 taken to either quantify the environmental or human  
 17 effects of poultry waste runoff or release from the  
 18 land.

04:54PM

04:55PM

19 MR. GRAVES: Object to the form of the  
 20 question and the burden shifting suggestion.

04:55PM

21 A We talked about the environmental and human  
 22 health effects part, and you can't quantify what you  
 23 don't know has happened, what you don't know  
 24 existed.

25 Q Let me hand you what's been marked as Exhibit

04:55PM

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1 Bayer.  
 2 Q From this report, can you tell me how long as  
 3 it's reported here litter was outside the houses at  
 4 Marty Beyer's facility?

5 A No, I cannot tell you how long it was outside  
 6 but I can -- what I can see here is that it was made  
 7 note of and it was addressed.

04:58PM

8 Q If you look at the second page of this letter,  
 9 it shows that there are at least five entries, one  
 10 of 5-2-05 reporting litter outside, 5-11-05 litter  
 11 outside, 7-13-05 litter outside, 8-18-05 litter  
 12 outside, 9-15-05 litter outside, and on the very  
 13 first page it reports on that on 3 -- I think the  
 14 date is 3-16 -- it's either 3-16 or 3-17 of '05 was  
 15 the first report of a large amount of litter pushed  
 16 out of the ends of the house across the driveway  
 17 were reported. Do you see those?

04:58PM

04:59PM

18 A Yes.

19 Q It appears that at least for a period of six  
 20 months litter was outside of the houses at this  
 21 location; would you agree?

04:59PM

22 A That's what it appears.

23 Q And at the bottom of the Page 1965 of this  
 24 document it says, prior to next placement of birds  
 25 on this farm, the litter piled and spread outside

04:59PM

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1 41.  
 2 MR. GRAVES: Just for the Record you've got  
 3 again sort of a scramble of both George's  
 4 productions out of sequence and some productions  
 5 that looks like it came from somewhere besides  
 6 George's.

04:56PM

7 Q Do you know the name Marty Bayer?

8 A I do.

9 Q Who is he?

10 A He is a hatching egg producer for -- has a  
 11 contract with George's.

04:57PM

12 Q Is he a contractor or is he operating a  
 13 company-owned or managed farm?

14 A He is a contractor.

15 Q Who is Ricky Pinkerton?

04:57PM

16 A Ricky Pinkerton is the breeder grow-out  
 17 manager for George's.

18 Q Have you seen this report before that Mr.  
 19 Pinkerton has prepared in this letter?

20 A I have.

04:57PM

21 Q When did you see it last; do you know?

22 A When did I see it last?

23 Q Yes.

24 A I don't know when I saw it last. I saw it at  
 25 the time that Rick prepared it and sent it to Mr.

04:57PM

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1 the houses must be cleaned up and properly disposed  
 2 of. Do you see that at Paragraph 1?

3 A Yes.

4 Q I'll direct your attention to Page 1990 of  
 5 this document, which is a breeder service report  
 6 dated May 31, '05 for Marty Bayer. Do you see that  
 7 page?

04:59PM

8 A Yes, I do.

9 Q Looking at the portion of the report where it  
 10 says conditions outside and it has circled good; do  
 11 you see that?

05:00PM

12 A Yes.

13 Q That appears to be right in the middle of a  
 14 time where there's litter stored outside this barn  
 15 for some -- several weeks; isn't it?

05:00PM

16 A No, it's not. That's a separate farm. That's  
 17 Bayer A farm. The farm that the letter is  
 18 concerning is M & M.

19 Q So you think these are separate farms?

20 A I know those are separate farms. You have  
 21 Marty Bayer A, B and C, and then you have M & M  
 22 which is on a separate piece of property.

05:00PM

23 Q Is Marty Bayer the operator of both of those?

24 A Yes, he is. He's the owner of both farms.

25 Q So if Marty Bayer is doing something wrong on

05:00PM

<p style="text-align: right;">Page 246</p> <p>1 one farm and you know he's doing something wrong by  2 leaving litter stored outside, you would still  3 deliver poultry to his other farm?  4 MR. GRAVES: Object to the form of the  5 question. All you've established is that they 05:01PM  6 marked good on a farm that didn't have litter pushed  7 outside.  8 Q All right. If you'll look in the comments  9 section of that same page, it says we'll be adding  10 130 males on Friday. Do you know whether or not 05:01PM  11 those male birds were delivered?  12 A I don't know that they were but I assume that  13 they were because of this statement.  14 Q If you turn to the next page, 5-31-05, it  15 talks about Bayer B, adding 250 males on Friday. So 05:01PM  16 we're adding birds to a farm, one farm, even though  17 you know on his other farm he's violating --  18 A But he's not on that farm. The conditions  19 outside on that farm are good.  20 Q That's my point. 05:01PM  21 A What is your point?  22 Q My point is on one farm where you know that  23 he's --  24 A Well, what does one have to do with the other?  25 They're totally separate facilities, totally 05:01PM</p>	<p style="text-align: right;">Page 248</p> <p>1 MR. GRAVES: We'll go for 30 minutes.  2 MR. GARREN: I'm not going to ask to extend  3 the rule. If you don't have --  4 MR. GRAVES: That's fine. We'll finish the  5 tape and that will be seven hours and then we'll 05:03PM  6 stop.  7 MR. GARREN: Okay.  8 Q Moving to a different subject, I'll hand you  9 what's marked as Exhibit 45 and ask you to identify  10 that document, if you would, please. 05:03PM  11 A It's a vendor payment history.  12 Q Does it show that George's has made a payment  13 to a vendor?  14 A Yes, it does.  15 Q Who is identified as that vendor? 05:04PM  16 A It's identified as Poultry Partners.  17 Q Do you know who Poultry Partners is?  18 A I do.  19 Q What is Poultry Partners?  20 A Poultry Partners is a group of poultry 05:04PM  21 producers, people with a stake or vested interest in  22 the poultry industry.  23 Q Bev Saunders is sort of the spokesperson or  24 manager of that group; is that correct?  25 A George's is not a member of Poultry Partners, 05:04PM</p>
<p style="text-align: right;">Page 247</p> <p>1 separate contracts.  2 Q Didn't you tell me they're operated by the  3 same person?  4 A I told you they are owned by the same person.  5 They're under separate contracts. 05:02PM  6 Q I see, and because they're under separate  7 contract but owned by the same person, if he  8 operates one farm to your satisfaction but not the  9 other farm, you're still going to supply him  10 poultry? 05:02PM  11 MR. GRAVES: Object to the form of the  12 question.  13 A Because that contract, because that  14 contract -- that one contract is not in jeopardy.  15 MR. GARREN: For the Record, it is 5:00. 05:02PM  16 The local rule requires us to end. I will report  17 that we have probably missed 30 to 45 minutes during  18 breaks by starting at 9:00 and --  19 MR. GRAVES: How long were the tapes? One  20 hour, and which tape are we on? Tape 6, Tape 7. 05:02PM  21 We've already gone through -- how much time is left  22 on that tape?  23 VIDEOGRAPHER: Thirty minutes.  24 MR. GARREN: We can come back and finish  25 this or -- 05:03PM</p>	<p style="text-align: right;">Page 249</p> <p>1 but that is my understanding, that Bev Saunders  2 is --  3 MR. GRAVES: Object to the form.  4 Q Do these records indicate to you that payment  5 was in fact made to Poultry Partners as set forth on 05:05PM  6 this vendor --  7 A It's listed as contributions to Poultry  8 Partners.  9 Q My point, this report would indicate that a  10 payment actually did occur; is that correct? 05:05PM  11 A That's -- yes, that is what it would report.  12 Q Let me hand you what's been marked as Exhibit  13 44. Can you identify that document?  14 MR. GRAVES: Do you have extras?  15 MR. GARREN: I'm sorry. I was looking at 05:06PM  16 it.  17 A I can.  18 Q Tell us briefly what this document is. I mean  19 there are actually two documents here. We have a  20 couple of receipts on the first two pages by 05:06PM  21 growers; correct?  22 A Yes.  23 Q And then the actual document they're  24 acknowledging receipt of is an environmental  25 framework and implementation strategy of poultry 05:06PM</p>



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1 operations; is that correct?  
 2 A That is correct.  
 3 Q How did George's obtain this document?  
 4 A I don't know exactly how this document got  
 5 into our hands, but this document was a result of a 05:06PM  
 6 meeting of the poultry industry, of some folks in  
 7 the poultry industry, and it is essentially a more  
 8 detailed set of BMPs, of management practices. They  
 9 are generic; they are not farm specific but they do  
 10 get a little more specific than the Addendum D of 05:07PM  
 11 the contract that we looked at earlier. Since -- at  
 12 that time, which we're looking at '99, the NRCS was  
 13 -- still had a considerable backlog on writing  
 14 nutrient management plans, farm specific nutrient  
 15 management plans. George's felt like it would be a 05:07PM  
 16 good idea to get this out to the growers as  
 17 educational material, as another step, if you will,  
 18 from the BMPs that were in Addendum D until they  
 19 could get a nutrient management plan that was farm  
 20 specific written for their farm. 05:08PM  
 21 Q Again, the purpose of these nutrient  
 22 management plans is to protect the water quality  
 23 from nutrients; isn't it?  
 24 MR. GRAVES: Object to the form of the  
 25 question, asked and answered. 05:08PM

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1 A They are to help the grower better utilize the  
 2 nutrients that he has on his farm.  
 3 Q Let me hand you what's been marked George's  
 4 number -- I'm sorry, Plaintiff's Exhibit 46. This 05:08PM  
 5 is an excerpt of the third-party complaint. I'd  
 6 reference you to -- it's marked Page 10, Paragraph 3  
 7 of that document, and at that location it says, any  
 8 contributions from poultry litter applications by  
 9 third-party plaintiffs or independent contract  
 10 poultry farmers with whom they contract to the 05:09PM  
 11 overall loading of phosphorus, nitrogen or other  
 12 purportedly harmful constituent in the IRW, which is  
 13 denied, would be insignificant in comparison to the  
 14 contributions of the third-party defendants. What  
 15 did George's do to make any determination to 05:09PM  
 16 quantify that its contribution would be  
 17 insignificant compared to third-party defendants  
 18 that it sued in this lawsuit?  
 19 MR. GRAVES: Object to the form of the  
 20 question. 05:09PM  
 21 A George's believes that the things that  
 22 George's has done and our growers have done with the  
 23 nutrient management plans, with exporting litter out  
 24 of the watershed, puts us at a much lower, a much  
 25 lower contributor to any nutrient load in the 05:10PM

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1 watershed than those that have not taken those steps  
 2 to do that.  
 3 Q Let me hand you what's been marked as Exhibit  
 4 19A.  
 5 (Whereupon, a discussion was held off  
 6 the Record.)  
 7 MR. GARREN: We're calling this 19. We  
 8 might verify after the deposition to make sure we  
 9 haven't misnumbered something.  
 10 Q This was a document I think I was looking for 05:11PM  
 11 earlier. This is the Addendum D and it shows that  
 12 the date of issue was February of 1990; correct?  
 13 A Yes.  
 14 Q This is the one that George's used that we  
 15 talked about earlier but I'm just trying to identify 05:11PM  
 16 it. You and I both were not sure about the date.  
 17 A Yes, but we were comfortable it was early  
 18 '90's.  
 19 Q Correct, and I just wanted to clarify the  
 20 Record as to that. 05:11PM  
 21 (Whereupon, a discussion was held off  
 22 the Record.)  
 23 Q I'm going to hand you what's been marked as  
 24 Exhibit 26 and ask you if you can identify that  
 25 document. 05:12PM

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1 MR. GRAVES: Have we already made this an  
 2 exhibit or is this different than the Ralph  
 3 Pendergraft M 6956 thing we looked at?  
 4 MR. GARREN: Let me see.  
 5 MR. GRAVES: You handed me something 05:12PM  
 6 different than you handed him.  
 7 (Whereupon, a discussion was held off  
 8 the Record.)  
 9 MR. GARREN: Let's bring it back. This  
 10 should be -- 05:13PM  
 11 MR. ELROD: It's a duplicate of what we  
 12 already had anyway.  
 13 MR. GRAVES: That was confusing me.  
 14 MS. HILL: What's this; 26?  
 15 Q It's a vendor purchase order referencing the 05:13PM  
 16 University of Arkansas.  
 17 MR. GRAVES: The copy I handed you back I  
 18 had already written 26 on so you might want to mark  
 19 that out on your copy.  
 20 MR. GARREN: I think we've already seen it. 05:13PM  
 21 MR. GRAVES: Yes, we did look at it  
 22 earlier.  
 23 MR. GARREN: We'll check that out.  
 24 MR. GRAVES: I don't know what number it  
 25 was but we did look at that. 05:13PM

64 (Pages 250 to 253)

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1 Q Can you tell me what that document is?

2 A It is a purchase order from the University of

3 Arkansas. The breeder farm that we have talked

4 about a couple of times here today, the one where

5 you had a copy of the original lease, hatching egg 05:14PM

6 contract and later it came up that somebody else had

7 it leased, for a period of time the University of

8 Arkansas actually had it leased and they were going

9 to do -- I don't know what they were going to do

10 with it but they were going to produce hens and work 05:14PM

11 with it, and after a short period of time what they

12 found out was they couldn't get students to gather

13 eggs and they wanted out of the lease, and so we let

14 them out of the lease and we got it back.

15 Q Does that report kind of give us an indication 05:14PM

16 when the time frame was that they were in control of

17 that facility?

18 A Well, this is for the second of a ten-year

19 lease. So they just started the second year and it

20 was in the second year when they asked out of it and 05:15PM

21 we let them out of the lease.

22 Q Okay. Let me hand you what's been marked as

23 Plaintiff's No. 29 and ask you to look at this. I

24 believe we have a compilation of various reports

25 here and I think most have been marked attorney eyes 05:15PM

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1 only, so I just want to bring that to the attention

2 of those in the room. What I'd like for you to do

3 is go through these and basically tell me what they

4 are, what's the purpose of them. So on the first

5 page it says production cost analysis active flocks. 05:16PM

6 What does that tell George's when it looks at this

7 report?

8 A Let me look at it for a minute. This is on

9 the old computer system. It's basically got the

10 cost that was charged to the flock, the cost of 05:16PM

11 chicks, the cost of feed, any vaccination or

12 medication costs that went into producing that flock

13 for these farms that are off to the side, and those

14 are standard costs. Those are not actual dollars;

15 those are standard costs. 05:16PM

16 Q Okay. The program at the front, up in the

17 left-hand corner, FLK 305, do you know what that

18 means?

19 A That's just referring to the -- that up in the

20 left-hand corner, that's IT stuff. That just tells 05:16PM

21 them what program this is and how to access it in

22 the system.

23 Q Okay. The next report is a breeder pullet

24 summary feed consumption?

25 A Yes. That's just tracking mortality and 05:17PM

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1 pounds of feed fed through the course of the flock.

2 MR. GRAVES: Can we note these are separate

3 reports? We've got them stapled together here.

4 MR. GARREN: Correct. I said that earlier.

5 It's a compilation of different kinds of reports I 05:17PM

6 just wanted him to identify.

7 Q Is this a report that's used today or is this

8 an old report that's no longer --

9 A This is an old report that's no longer in use.

10 Any of these that are on blue bar -- 05:17PM

11 Q Yes, sir.

12 A -- are no longer. There may be new reports

13 that have the same information on them but these

14 report numbers would not be good anymore.

15 MR. GRAVES: The blue bar reflects a 05:17PM

16 diligent search of old records.

17 Q Go to the next to the last page then and we

18 see a report that isn't on blue bar but it's a

19 pullet movement report, and am I assuming from this,

20 this shows where the pullets are moved then to a 05:18PM

21 laying facility?

22 A Yes. The top half of the report, if you are

23 looking at the left side, these are pullets that

24 came from Leslie pullet farm, Houses 1 through 5.

25 It has the information on those, and then it has the 05:18PM

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1 date that each house or each group was moved out,

2 the number of females, number of males that were

3 moved, and then it's got the breeder farm that they

4 were moved into.

5 Q Okay, and the last report of this group of 05:18PM

6 documents, this would be considered one of the old

7 reports; looks like it was just kind of blown up in

8 a different size. Am I correct on that or is this a

9 new report?

10 A No. It's an old report. 05:19PM

11 Q And AR transactions with a grower would

12 indicate what?

13 A That's where we deducted propane out of Mr.

14 Barbee's settlement check.

15 Q And that was done because the gas company 05:19PM

16 would have advanced costs of propane to him during a

17 flock?

18 A If you purchase gas from George's, then

19 George's will go out and set your tanks and we

20 retain ownership of the tanks. You don't have to 05:19PM

21 buy the tanks. Then we will fill your tanks up with

22 gas and we'll inventory those tanks, and then at the

23 end of each flock, we'll go out and take a reading

24 and we'll only deduct from your settlement the gas

25 that you actually burned. You don't have to pay for 05:19PM

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1 the gas that's inventoried on your farm. So  
 2 George's owns the inventory that's in your tank and  
 3 you only pay for it as you burn it.  
 4 MR. GARREN: I think I'm done.  
 5 MR. GRAVES: I don't have any questions. 05:20PM  
 6 MS. HILL: First time Exhibit 19 was used  
 7 was the letter to the citizens of Oklahoma in the  
 8 Daily Oklahoman. The second time it was used it was  
 9 Addendum D.  
 10 MR. GRAVES: The second Addendum D? 05:20PM  
 11 MS. HILL: Yeah.  
 12 MR. GARREN: You know what? We don't have  
 13 to put this on the Record.  
 14 VIDEOGRAPHER: We are now off the Record.  
 15 This concludes the deposition of Mr. Benny McClure. 05:20PM  
 16 The time is 5:20 p.m.  
 17 (Whereupon, the deposition was  
 18 concluded at 5:20 p.m.)  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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## SIGNATURE PAGE

1  
 2  
 3 I, Benny McClure, do hereby certify that  
 4 the foregoing deposition was presented to me by Lisa  
 5 A. Steinmeyer as a true and correct transcript of  
 6 the proceedings in the above styled and numbered  
 7 cause, and I now sign the same as true and correct.  
 8 WITNESS my hand this \_\_\_\_\_ day of  
 9 \_\_\_\_\_, 2007.  
 10  
 11  
 12

\_\_\_\_\_  
 BENNY McCLURE

13  
 14  
 15  
 16  
 17 SUBSCRIBED AND SWORN TO before me this  
 18 \_\_\_\_\_ day of \_\_\_\_\_, 2007.  
 19  
 20  
 21

\_\_\_\_\_  
 Notary Public

22  
 23 My Commission Expires:  
 24 \_\_\_\_\_  
 25

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## C E R T I F I C A T E

1  
 2  
 3 STATE OF OKLAHOMA )  
 ) ss.  
 4 COUNTY OF TULSA )  
 5

6 I, Lisa A. Steinmeyer, Certified  
 7 Shorthand Reporter within and for Tulsa County,  
 8 State of Oklahoma, do hereby certify that the above  
 9 named witness was by me first duly sworn to testify  
 10 the truth, the whole truth and nothing but the truth  
 11 in the case aforesaid, and that I reported in  
 12 stenograph his deposition; that my stenograph notes  
 13 were thereafter transcribed and reduced to  
 14 typewritten form under my supervision, as the same  
 15 appears herein.

16 I further certify that the foregoing 259  
 17 pages contain a full, true and correct transcript of  
 18 the deposition taken at such time and place.

19 I further certify that I am not attorney  
 20 for or relative to either of said parties, or  
 21 otherwise interested in the event of said action.

22 WITNESS MY HAND AND SEAL this 18th day  
 23 of August, 2007.

24 LISA A. STEINMEYER, CRR  
 CSR No. 386  
 25

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CORRECTIONS TO THE DEPOSITION OF  
BENNY McCLURE 30(b)(6)

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 2  
 3 PAGE AND LINE NUMBER CORRECTION  
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